

## Closed Caption Log, Council Meeting, 10/01/09

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begin this morning with the invocation from pastor patrick wilson, from the westoak woods baptist church, please rise.

Heavenly father we come before you today as the great creator of the universe, king of all king, one who has established all governments and the giver of all life. We thank for you the privilege of living in this great city, for its heritage, its culture, its leadership and its people. I pray for your mayor and for our -- for our mayor and for our city council members, along with all of us as citizens within this wonderful community, that out of your glorious riches you will strengthen and empower us to fulfill your mission to care for our city and the needs of its inhabitants. To the lonely may we be the arms of companionship. To those who are discouraged, may we be the smile to lift their spirits. To hopeless, may we share the message of true hope. Dwell in our hearts today, use us as your instruments to share your love with others, filling us with the width, the length, the depth the of the love of christ jesus. Give these officials the wisdom and discernment for best know how to carry out our community, moving forward amidst the troubling times that we face. We turn to you, lord, because we know that you and you alone can do immeasurably more than we can ask or imagine. It's by your power that works within us that we accomplish all of our goals. May you receive all of the glory in this city, our schools, our churches, our neighborhoods, our families and our own individual lives both now and throughout all generations forever and ever, amen.

Mayor Leffingwell: Please be seated. A quorum is present, so i will call this meeting of the austin city council to order. on october 1st, 2009. We're meeting at 301 west second street, in the council chambers, austin city hall, austin, texas. Changes and corrections for today's agenda, first, is 41, change the name fanny gazebo to read fanny davis gardens on auditorium shores. 36, add as a co-sponsor councilmember chris riley. 37, add as a co-sponsor, councilmember chris riley. Our time certain items for today at 12 noon we will take general citizens communications. we will begin our zoning matters. 30, we will take up live music and proclamations and the band of the day is the leather bag musicians. 00, we will have time for public hearings. The consent agenda this morning is items 1 through 47, the following items have been pulled off of the consent agenda. 1, which is the minutes has been withdrawn. 2 is pulled because it requires a roll call vote. Items number 3, 4, and 20 have been pulled by staff for a briefing. Those are all related items. -- 11 -- and 32, have been pulled because of -- because of people signed up to speak on those items. Items number 15, 16, and 17 have been pulled

by staff for a presentation. And items number 22 and 23 have been pulled by me for discussion. I believe those are all of the items --

mayor, we have one more. 34 And 37 have been pulled because we have speakers.

Mayor Leffingwell: Thank you. Additionally items number 34 and 37 have been pulled for speakers. Any additional items to be pulled off the consent agenda by the council? Hearing none, I will entertain a motion to approve the consent agenda. Motion by the mayor pro tem, seconded by councilmember cole. Is there any discussion? All in favor say aye.

Aye.

Any opposed? That passes on a vote of 7-0. And I think that we will now have 2 for staff presentation and roll call vote. And -- and let me just say we'll now take up item no. 2, To approve an ordinance adopting and levying a property tax, ad valorem, tax rate for the city of austin for fiscal 2009-2010. This motion must be made using words required by the texas property tax code. The tax code also requires the vote on this motion to be a roll call vote. Is there a motion to approve the tax rate? Mayor pro tem?

Martinez: Mayor, I move that the property tax rate be increased by the adoption 09 cents per 100 valuation, which is 5% increase in the tax rate.

Mayor Leffingwell: Motion by mayor pro tem martinez, seconded by councilmember cole. Is there discussion? We have a motion and a second that the property tax be increased by the adoption 09 cents per \$100 valuation. Please call the roll.

[Indiscernible] [roll call vote]

councilmember shade?

Councilmember spelman.

Mayor Leffingwell: That passes on a vote of 7-0. So -- so I believe now we can take up together items number 3, 4 and 20, beginning with a staff presentation.

Mayor and councilmembers, I'm laurie [indiscernible] with the real estate services division. Council, we are requesting 4, subject to the city manager authorizing us to negotiate the price for repairs.

Mayor Leffingwell: I had understood that we were going to take 3, 4, 20 up together, is that correct?

Yes, it's the item and the related budget items.

Mayor Leffingwell: Any questions of staff? Is there a motion for approval of items 3, 4 and 20?

Councilmember spelman moves approval. Is there a second?

Second.

Mayor Leffingwell: Seconded by the mayor pro tem. Any discussion? All in favor say aye.

Aye.

Any opposed? 3, 4 And 20 pass on a vote of 7-0. thank you. We will now take up item no. 11, Which was pulled because several people wanted to speak to that item. First is reverend fred crebbs, signed up as neutral. Reverend crebbs, you have three minutes.

Mayor leffingwell and city council members, I'm pastor fred crebbs of prince of peace lutheran church and a leader of austin interfaith. According to numbers released last week, austin has a poverty rate of 17%. A child poverty rate of 22%. And an uninsured rate of 25%. And what's most shocking of all, these rates are higher than both the texas and national average. Texas is becoming the poverty capital of texas. Austin is becoming the poverty capital of texas. And this is deplorable. We commend the mayor and council for their support of long-term job training through capital idea and social services, spending in general over the past two years. This is a strong commitment to invest in families. Especially in tough economic times. Capital idea pulls people out of poverty. Which is the best kind of economic development. In this past legislative session, we worked with comptroller susan combs and our legislators to create the 10 million-dollar jet fund which can match local dollars invested in successful projects like capital idea. Now, mayor and council, we're here today to call on you to pass an ordinance that requires any company receiving city tax abatements to relocate to austin. To pay a living wage of \$18 an hour with benefits. A career track and a strategy to hire locally. We do not want our tax dollars subsidizing low wage jobs. And we will not let austin become a cheap labor town. Austin's attractiveness has always been its educated workforce and its quality of life. Council, are we going to perpetuate poverty by giving incentives to companies which do not pay living wages? Or are we going to set a higher standard for wages and invest in training a skilled workforce to lift people out of poverty? We work hard to raise our children and grandchildren to compete for the best careers in our local economy, council. And we will not undercut our program to them by spending our money to attract low wage jobs. There are plenty of those jobs alre.

Mayor Leffingwell: Thank you. Are you minerva camaerna [indiscernible], three minutes.

I'm a leader with austin david's episcopalian church. If you want to see what happens to a city that uses its resources to attract low wages, let's look at the city of el paso. In 1950, the city of el paso had the strongest economy of any city in the southwest united states. It was a major commercial and manufacturing center and its median income was 103% of the national average. Its high school graduation rates were higher than the national average as well. Over the next several decades, however, political, and business leaders, initiated a cheap labor strategy and focused on attracting and maintaining low wage jobs, such as textile manufacturing. 58 Years later, el paso's economy is now among the worst in the nation. And its income is 66% of the national average and its high school

dropout rates is now 50%. If we want to end up like el paso, then let's subsidize low wage jobs. Austin interfaith's focus has always been to pull people out of poverty and build a strong middle class. Families in our poor congregations have been stuck in low wage jobs and families in our middle classes congregations are seeing their real wages shrink and health care costs rise. We have no say over what happens to wages and benefits in the private sector. However, if a company wants to use our tax dollars to bolster their bottom line, they should have to at least provide a liveable wage, a career track and a strategy to hire locally. We are glad to see that the council is adding more time for public discourse on the use of our tax dollars. However, we call on the mayor and council to pass an ordinance that requires companies receiving tax incentives to pay a living wage of \$18 an hour with benefits, a career track and a strategy to hire locally.

Mayor Leffingwell: Thank you. I would just comment that that issue, the issue that the last two speakers spoke on, is not a part of this item no. 11. Councilmember shade?

Could I ask -- [indiscernible] this is not staying on. Minerva or one of y'all, I'm just curious what economic incentive deals are you talking about in austin that we've passed that are supporting low-wage jobs?

[Inaudible - no mic]

Mayor Leffingwell: Please come up to the podium. If you don't come to the podium, it doesn't get on the tape of the meeting.

What we're asking for is that there is a policy, an ordinance that says if there's going to be incentives, that they have to follow these four things. And so -- they haven't happened, so we want to prevent them.

Shade: Would y do you think it hasn't happened so far.

We want to keep the course, that we want to have high wages and trying to attract better jobs and we're going to use our tax dollars, we want to keep that as a standard. We don't want to change that standard.

Shade: There's nothing that would make you think that the standard is changing.

The city of austin hasn't done, as a council, we do have experience when samsung came to austin, the county did, was about to give them incentives with very low wages, very little cooperation, any of that. The organization went in, worked with the county, changed that and so out of that came money from job training and money to be able to -- that is now being used in job training programs like capital idea. So it can happen.

Shade: But it happened because of the discussion and the policies that we have in place that are flexible that allow that to happen, right?

Say that again?

Shade: The reason why that happened was because we had publi discourse, we had flexible economic development policies that allowed people to at least come to the table for discussion.

I think it happened because the organization was willing to come out and push back. But it would have gone through if there hadn't been an organization that was willing to push back. So what we're asking is that instead of having to come in after the fact, as we said at the forefront that's what we want. There's a policy, there's an ordinance, that becomes the standard. Then we don't have to come back and undo things that haven't been done right.

Shade: But it wasn't done. I mean it was --

it passed, it passed we have to undo it.

Shade: With the county. But they don't have the same policies that we do.

Well, now they are -- they are adding -- they added --

Shade: I'm trying to make sure that I understand that the idea that you are talking about is not yet a problem.

Well, it -- it was -- it was a problem with the county. We want to make sure that it never becomes a problem with the city.

Shade: I gotcha, thank you. Cole cole I have a council --

Cole: I have a question, mayor. Can I ask you a question, minerva. I guess I agree with you on everything that we want everybody to have health benefits, liveable wages and -- but the reality is, of course, we have only passed five or six economic development agreements and just like councilmember shade has talked about, it's -- this kind of discussion, it's -- it's more of an academic discussion because it just doesn't come up that often. But I'm concerned and it's interesting to me that -- that austin interfaith is an organization that works with the unemployed and some underemployed and job training and so I agree with that mission completely. But I am concerned that we still have people in this community who are unemployed, underemployed, are only qualified to receive low wages and for us to adopt a policy that -- totally excludes them from incentives, despite good work that your organization does, is -- is troubling to me. Do you understand the argument?

No, I understand. The thing is that there are -- there are going to be jobs that are low wages and what we're asking for is that we're going to use our tax dollars to bring in jobs, not to use those tax dollars to bring in more low wages. We don't need more low wage jobs. They exist. They will always exist. But what we're asking for is it doesn't make sense to use our tax dollars which are going to be very strained, because of the economy, we use those tax dollars to bring in low-wage jobs, then we're going to use the

tax dollars for those same people that are not earning a living wage job, they're going to have to turn around and go to all of our clinics and they're going to end up in the pantry at pastor crebbs and southwest a because they are not going to have enough to support their family. They're going to have to be getting services and support from both ends. So it doesn't make any sense for our tax dollars to bringing in, luring in low wage jobs. If we're going to lure jobs, let's lure good, high wage jobs. So low wage jobs will exist.

Cole: I guess that I'm going to get you on the calendar to talk about this, because I fully recognize that the unemployment rate in the african-american community is upwards of 30, 40%. And especially among the african-american males. And the statistics for the hispanic community are worse than that. And then when you talk about the people who actually use social services, in this community, it's worse than that. So the premise that we have enough low wage bs or that we're actually moving people already into training programs and increasing their wages, that's what i want to talk to you about. Because I want to make sure, I think our goals are the same. But that we get there. Okay? So let's just talk about it later.

Mayor Leffingwell: Councilmember morrison.

Morrison: Thank you, i want to thank the austin interfaith folks for coming down and speaking and pushing this very important issue. I'm very respectful of councilmember cole's comments and concerns. However, I believe that what we're working on is ensuring or what you are suggesting that we work on is that we ensure for the future, you know, independent of who is on the dais, that -- that we are able to -- to -- to guarantee that we're using our tax dollars, our citizens tax dollars, for -- for jobs that -- that will help people have -- have adequate quality of life and I'm looking forward to working with my colleagues in the near future to -- to draft an ordinance and with the legal department, I know that there will be a lot of discussion. There are also details to work out in that ordinance and however we -- however we craft it to define living wage. We need to have an index. We can't just set a number. We need to have a definition of what benefits would be. And then also more challenging for an ordinance is defining career paths. And local hiring strategies. So I'm looking forward to working with everybody on this to see if we can get a win-win, address the issues that councilmember cole has come up with because they are very important issues that we have high unemployment, especially as part of -- in parts of our demographics that you had mentioned. So with -- with the mayor -- I will certainly look forward to working with all of you and the stakeholders in the coming weeks.

Spelman: Mayor?

Mayor Leffingwell: Councilmember spelman.

Spelman: I have a question for city staff, if there's somebody here who can address the ordinance.

Hello, council, rodney gonzalez, acting development tore for economic growth and redevelopment.

Spelman: Good morning, mr. gonzalez. As I understand it, this ordinance is mostly about procedural

stuff. It's about the process by which information will be made available to the public in advance, how many days in advance and how before we make a decision on any economic incentive proposal. And it -- it guarantees that somebody will conduct a benefit cost assessment of that -- of that incentive proposal before we actually make a decision on it. Is that your understanding?

Yes, you're correct.

Also it's my understanding that it doesn't specify the details as to who it's going to conduct the benefit cost analysis, how it's going to be done, what's going to be included in it, and so on.

Okay. It's the intention of egrso to actually conduct the cost benefit analysis.

Spelman: Can you tell me a little bit, at this point, could you tell me a little bit about what's going to be in that cost benefit analysis?

The cost benefit analysis, what we're doing is we're moving to a local fiscal assessment, impact, called web loci. It's a -- it's a tool that's developed out of georgia tech university. And it's a similar tool that's used by capcog. It captures all of your direct and indirect costs with regard to projects coming into the city of austin. The web loci tool, what it does is it uses a community profile whereby we enter various amounts of data pertaining to the city of austin and then for each specific project there are data points to enter well.

Spelman: So for example if we were talking about the samsung deal. If samsung were coming up now, they are in a particular industry, they're going to hire a particular number of people at particular wage rates, that's the kind of information that you could plug into the commuter and it would tell us the direct and indirect effect of those people being hired in those particular industries on the economy as a whole; is that roughly what's going on?

Yes, those are just a few of the data points that are interested. You enter all of the different fees that samsung may pay coming into the community. You enter in whatever other impact items, I have a -- i have lists of them here that I could read from with regard to the project itself. But they are probably -- [multiple voices]

Mayor Leffingwell: Mr. Gonzalez, we have four more speakers, let's go ahead and take the four remaining speakers and then we can enter into this detailed discussion of what actually is involved in the ordinance.

Spelman: I was not intending to go into more detail. I certainly didn't want to hear that list. I just wanted to get a sense that we had the idea of what that benefit analysis was going to entail. Whether it was possible first to get a -- get a further briefing at some future date as to how those benefit cost analyses would work.

Sure, and just as a point of clarification, when we held the stakeholder meetings back in march, april

and july, specifically march and april, we went over the web loci fiscal sement impact tool and we went over the community profile data points as long as project data points that way every one of the stakeholders could be familiar with what that assessment tool is.

Spelman: Second, whether it would be possible conceptually for the kind of issues that austin interfaith has been raising to be include understand that cost benefit analysis.

I didn't hear that part.

Spelman: Whether it would be conceptually possible for the kind of concerns that austin interfaith has been raising about the -- the effects of different wage rates being offered, the effects of different minimum wage rates being offered by a particular firm on the economy as a whole, whether that's the sort of thing that you might be able to --

the wage rates specifically are addressed as a data point. Other qualitative aspects that austin interfate is speaking to aren't specifically addressed as a data point. With regard to --

Spelman: Whether they are in web loci or not, that's something that you could include in a cost benefit analysis.

What we do with those characteristics, we also have the city's economic development policy which has a matrix. All of those attributes that austin interfaith is speaking to are addressed in the matrix. That was adopted by city council.

Spelman: Okay. So your benefit cost analysis is going to be guided in part by the software which will tell you direct and indirect effects of various things. By the matrix which as a matter of policy the city council set forward.

Yes.

If the city council were to make changes requiring wages by a particular firm to qualify for economic development incentives, that would be -- that would be gist for your mill in determining whether or not this was a good idea from city's point of view.

If you are talki about a floor. That more pertains to whether or not a company would be considered for economic development incentives, not a scoring criteria.

Spelman: Okay, that's one way we could do it. Thank you very much.

Okay.

Next speaker is dave porter, signed up speaking in favor. Welcome, you have three minutes.



Good morning, mayor, councilmembers, I appreciate the opportunity to be here this morning. First of all, we do support the ordinance as written today. But I would like to address some of the issues that have been discussed already. By austin interfaith. We welcome healthy dialogue and debate about the use of incentives. But at a time right now when cities, counties and states are actually tweaking their policy to be more flexible to attract new investment, now is not the time to be adding further restrictions to our current policy. We have only used it once in the last two years. We have used it five times since 2003 and by the way, the average wage for the five projects have been 110% above the average county wage. So we aren't attracting low income jobs. Low wage jobs. Okay? But, however, I want to tell you about a recent competition to show you how the game has changed during this recession. This past april, we competed with san antonio on a 1400 person operation, med tronics, a medical device firm headquartered in minnesota, looking to relocate a division out of los angeles. 1400 Jobs, average wage of 32,000 plus benefits. Now, I can tell you today that those are good jobs for 1400 families in austin, texas. Okay. So -- so if you do the math on the \$18 figure, that's close to 37, 38,000 a year. But we will have opportunities to attract the 1400 person operations at 32,000 a year. What san antonio did for that project, not only is it a tax abatement which is our standard incentive, they put cash on the table. 3 milln from the city of san antonio, bexar county put in another 2 million and then the , put in a million. On top of tax abatement. That's what we're competing with. We compete with san antonio a lot. So now is not the time to be -- we welcome the debate. But if we put further restrictions on this policy that is so seldom used, we aren't going to be using it at all. So I would encourage you to have this debate at a different time when the which he is better. We need to be attracting jobs. There was a recent article how our median income per family is now down. Jobs were -- we're bleeding jobs. We need to be aggressive. I wish that the dialogue was about how we can attract jobs. Anyway, that's my comments. I would be happy to answer questions, thank you.

Mayor Leffingwell: Thank you. Next speaker is gus pena. pena is signed up in favor.

Gus pena, native east austin night, looking back at the proposed ordinance i really shouldn't have said in favor. I have some questions, also. But I'm glad that you kind of filibustered the meeting, councilmember spelman. But it brought -- look at him make the face. It brought up some good ints that need to have been addressed and also mr. Porter, I agree with you, partially, but the issue is now is not the time to quibble about things that will negatively impact the community and those in -- the community and those in need of jobs. High paying jobs to pay the rent, pay medical bills, put food on the tables, not just for families, mom and dads, possibly living with their household. Let me get my glasses on. We talk about cost benefit analysis. Well, you need to review this process. I think it's -- review the whole process, include austin interfaith, but also a broad, diversion population, a representation from the city of austin, before you act on this ordinance, before you vote on it, you know, I think -- a good point was brought up by you, councilmember spelman, educate the public, I don't know what the proposed ordinance is all about. The specifics. Specificity is a must. Okay. Because I really was kind of confused about what I was going to speak about and speak to. One of the things that i have heard from many business owners is that the process needs to be revamped. The scoring system, the scoring criteria. You heard complaints about this, I'm sure, there's some engineers here in the audience. So that would behoove y'all to take that into consideration. A fair, equitable process, yes. We need liveable wage, but some people can survive, i can tell you about poverty, I grew up in east austin, a native east austin

night, i can tell you, poverty is not just previous leap in east austin, but throughout the city of austin. Poor people live or move to places to say i'm safe, free away from crime, so they can't afford to rent, but may do without food or other things in order to pay good rent. Anyway, I wanted to share this with you. I consider him a friend, city manager marc ott, i have gone to bat for you many times, behind the scenes where you don't even know bit. Quote of the week in austin chronicle, in my 27 years in in this business I have never seen as hard of a demographic line of i-35. City marc ott speaking on the issues of race. True statement. Again, poverty is not prevalent just in east austin, southeast austin, north austin, where a lot of immigrants are moving over there. And they need good jobs, also. But you're right, mr. Porter, now is not the time to quibble. This is the perfect time to quibble about getting high paying jobs for the people to maintain a high quality of life. Healthy life and safe life. Thank you very much, and get an equal representation from a diverse population throughout austin. Thank you all very much.

Mayor Leffingwell: Thank you, mr. pena. Next speaker is ray garza. Ray garza. Next is bryan rodgers. rodgers has signed up against the ordinance and item 11. You have three minutes.

Don't start the clock yet yet. Good morning, council, one of the reasons we are here, probably the biggest reason that we're here is because of the five and a half year fight that I had against the domain. It was a deal that I guess michael loden in his reports said it was the anatomy of a bad deal. This is about economic development for all of us. One of the things that i learned about economic development is that it means different things to different people. For the developer of that project, there's the economic development of their own bottom line. For the city of austin, there was economic development, their own fiscal budget development because they wanted the sales tax money. For the chamber of commerce, there's another economic development and that's the economic development of its members. The feeding the business model of its members. Then there's the community economic development for the rest of us. Councilmember shade allowed me to attends the -- the committee meeting with rodney gonzalez and the stakeholders. And the first thing that he said is that we don't have an economic development department. We have given that over to the chamber of commerce. To the economic -- to opportunity austin. And so -- so we are -- the economic development policy of this city is pretty much run by -- let me flick through here, opportunity austin. The -- this is opportunity austin, one, 250 members are about -- about 220 of them are real estate related. So what we have is an economic development policy of a city that is driven by real estate interests. Okay, now that may or may not be good. But it's also, if you look at the unemployment figures, okay, we have 800,000 people in the msa. Austin has 400,000. Well, the greater austin chamber is interested in the 800,000. Our tax money is more interested in the 400,000. So we need to parafait our enter into what is the interest of the city of austin taxpayer. And, you know, I see that our money is going to new york to pay public relations people to put austin on the number one list. Maybe that's a good thing. I see where, you know, we're paying news releases for gary farmer out of our tax money, you know, to promote him. I don't know if that's a good thing. But michael loden had five different best practice issues that -- that came out of that report and there's a shadow of the five, some of them are ignored completely. But I want to concentrate on the third-party cost-benefit analysis. Who is -- I'm running out of time. One of the chamber guys looked at me at the meeting and said bryan, I have members sitting on houses that need to be sold. Well, that's your business model. We need third-party cost-benefit analysis and bryan kelsey of capcog will do one for free. If the chamber deal is so thin it can't stand a third-party analysis then that deal doesn't need to

be done, thank you.

Spelman: Mayor, I have a question.

Spelman: Thank you, councilmember spelman.

Spelman: rodgers, can you explain to us why if capcog is doing an analysis and rodney's people are doing an analysis using the same software tools and same input data, why would it matter who actually does the analysis as long as the procedures are same?

Well, I do financial modeling on real estate projects all the time. You know, it takes one little tweak here and there to make a different internal rate of return or whatever. So one of the questions that I had in this meeting, let say the give and the get scenario. Let's say the 500 person company comes to town, the economic development department here says that it's a get of 10 million for the city. What if it triggers a new middle school for \$30,000. There's a whole lot of different costs that I'm not so sure will be put in. I mean, the cost of single -- the cost of public infrastructure for a single family house by the time that you add the schools, the water, wastewater and the things that we don't get impact fees for, is probably \$25,000. So if we bring piles of new residents in, and then we're going to end up with higher bills. I don't trust that an in-house analysis will -- will be fair and unbiased. And I think that's one of the reasons that it was listed as a best practice by -- by professor oden.

Spelman: For sure whoever conducts the analysis, I see your point on the third party. But whoever conducts the analysis, we ought to be sure to include those second order effects of what are the effects of population growth on our own costs as a city.

That's right.

Spelman: Otherwise -- one of the big points that you are talking about here.

Well, also that it says that we'll have access to all non--- I forgot how it was put, on the background information. Basically non--- the background, all unrestricted information. Relevant to the proposal. Well, I don't know what is unrestricted or restricted. As a citizen for an input. Maybe it's some of the stuff that we won't have access to. You know, we don't have access to the program itself. So -- you know, it's -- all we do is say here's the input, here's the results. So it's -- yeah.

Mayor Leffingwell: City manager?

Thank you, mayor. rodgers, I was intrigued by councilmember spelman's question about the difference between, you know, who uses the model. I heard you use the word trust. So I guess that I want to make sure that I understand what you are saying. Are you questioning whether or not staff has the ability to effectively use the model? Or do you have some other concern?

My other concern is that they are under a lot of pressure. The reason the third-party -- it's free. I don't

know why -- bryan kelsey with capcog will do it for free. But staff is resistant to put a free service into the ordinance. All that tells me is that there are outside pressures not allowing a full airing, you know, of this issue.

So you don't trust that staff would deploy and use the model objectively; is that what you are saying?

That's what I am saying.

I guess in terms of that notion, you know, as a city manager and certainly providing the leadership for staff, I simply reject that notion. You know, I know this staff to be, you know, very professional and objective in what they do. In response to that position, I just need you to understand my perspective on that.

Sure. There are biases built into people's behavior. And the third-party is not something that we just invented. An independent analysis isn't the first time people have used this. There are checks and balances. Having capcog, it passes capcog's cost benefit analysis then hooray, it's a deal. But if there's any inclination that this thing has some inputs, you know, the community would be a lot happier and more able to accept an incentive package if there was an independent analysis done. That's the purpose of the third-party independent analyses.

Mayor Leffingwell: Councilmember shade and then the mayor pro tem.

Shade: First of all, i want to say I appreciate what you bring to this discussion, bryan, as you know. I think that your participation and the work that you did earlier contributed to the fact that we have opened the process to allow for the public hearings that you have requested. We have now bought the web loci software solution that you recommended. Bryan kelsey is not free. I mean, he gets paid a salary because the city of austin is the largest dues payer to cap position. There is a connection here. What happens with cap position -- capcog, what we as constituents are concerned about, they have their own workload. We don't have the control of the speed with which we can get the information. We talked with bryan kelsey about how this would work best. We worked collaboratively, we are a member of capcog as is the chamber of commerce. I want to correct you on the point about the policy. Economic development policy that we have, which includes the matrix that encompasses work and health benefits and several questions revolving -- involving charitable participation and career path and educational opportunities and there's green building and there's infrastructure impact and many things, which will now be enhanced by using this additional software tool, those -- this was all set up by a very exhaustive process that happened in 2003 that included many people besides just those that are on the opportunity austin list. And so if you talk to the people who participate, the small business owners, the minority chambers, I think they would resent the fact that you would say that the entire economic development program for austin is run by real estate interests at the chamber of commerce. I just don't see it. We're supporting small business, we're supporting creative industries. And it's much more broad than what you would indicate. I just want to make sure and make that point for the record. I think that you bring lots to this discussion and debate. I think we've listened and have improved the process as a result of your participation. But I think your oversimplifying it to say that's all we do I just pass it off to the chamber of

commerce.

Well, somebody is keeping this third party out of the loop. And that's -- that seems to be a political pressure rather than getting to the right answer, the matrix that you speak of that was done by community members is a subjective matrix. It doesn't say 90% of the people should be local hires. It just says, you know, local hires is a checkbook.

Shade: Right, that's why we are enhancing it and using the software. Again we worked with capcog. They are also responsible for doing the same type of work in regional. Sometimes it will make sense to have capcog, sometimes internally. Some of the work that we do is not related to the chamber's austin opportunity key target opportunities, there are some that the city of austin targets that are independent of that. We want to have -- we have a very capable of staff. We've -- we worked again very competitively -- collaboratively with the folks at capcog, councilmember riley sits on the capcog board, I'm directly working with bryan kelsey on a number of items. I feel very comfortable that they are happy we also will have that software tool. I think there will be a lot of debate, I don't think there's any question that rodney and his staff would be working with bryan kelsey to make sure that they are checking assumptions against each other. We work collaboratively. We're the biggest dues paying member.

Mayor Leffingwell: I don't think there was a question in there. I just want to comment that -- that -- I know that you didn't mean it this way. But the staff does not make the decision on economic incentive packages. Opportunity of austin does not make that decision. Capcog does not make it. The city council makes that decision. So I think it's really in some sense at least irrelevant whether or not you trust the staff or you trust capcog or you trust opportunity of austin. That responsibility belongs to the city council. And I know you didn't -- again, I know you didn't mean to say that. I don't want anybody listening to this discussion to get the impression that austin interfaith decision ultimately lies elsewhere. It -- that austin interfaith lies elsewhere.

There's a bias that is reported.

Mayor Leffingwell: Mayor pro tem.

Martinez: I just want to add to the discussion. This council completely reserves the right to send anything to the city auditor, audit and finance. I would think that the city manager at our suggestion would welcome that. That is third party independent but as you said there's probably some built-in biases with that as well. We retain ultimate authority on any agreement. And because of your work and the advocacy of some of the folks that you have been working with, with us, I can assure you that this council is completely aware of the concerns that you have laid out and we're going to do everything we can moving forward to make sure that any agreement passes all of the smell tests, bryan. And I appreciate your role. I know that you are not going away. You know, you're going to be here. This is your community and you care about it. And we hear you. I appreciate it.

Mayor?

Mayor Leffingwell: Councilmember shade.

Shade: One other item, just to clarify, one other item added to the process, before any compliance is -- before any compliance is certified, we do use a third independent party and outside resource to certify that goals are met, compliance is met before we award any tax incentives. So that's also using a third party incentive on the back end as well as on the front end.

Third party and the usual city contractors, if it's an independent unbiased, if they are one of our city consultants, I don't consider that independent or third party.

Mayor Leffingwell: Thank you.

Cole: Mayor? I have a quick question for you, rodney, about the matrix. I know that the matrix gives credit for green building. But I'm not sure whether the matrix makes any type of particular recommendation for green industries. Or includes that in the analysis.

Let's start -- the target industries include green industries. So we have five target industries that are developed through the city in conjunction with the opportunity austin program. Those are green industries, health care and life sciences, corporate and professional operations, convergent technologies and creative industries.

Cole: Can you give us any idea about the wage range that those particular industries are offering?

I think it varies, i think it's a very important discussion. One thing that we've done, of course, is to recruit high tech convergent technologies as well. Those wage rates are typically high. However the education requirement for those jobs is high as well. When we're talking about green industries, the wages are lower, they are about the 32 to \$36,000 average.

What is that per hour, if you know?

Approximately 16 to 18, i believe. With tse industries you don't have necessarily the higher education requirement. You do have some skills training for certification, et cetera. We've got some really good programs in the city that are working towards green industry certification. Such as austin community college and such as american youth works. So I think that it's very important to -- when we talk about the higher wages and trying to attract higher wages that typically what comes along with that is a higher requirement.

Cole: I am familiar , two year program, I also know that aisd is in the process of implementing certain education programs to encourage students to be prepared for the new green economy. And, of course, we as a council have promoted that in many issues coming before austin energy. But who I'm trying to -- what I'm trying to get at, as we move to recruit those type of industries because we know that is where the growth is going, I wanted to get a sense of the wage range.

Okay, the wage range for green industry specifically. It's going to vary because you have all sorts of types. You have like solar installation, you've got solar technicians. You've got along with that other green industry categories. And it's going to vary. You've got

engineering along with that.

Cole: When you talk about a solar technician, of course we have made the commitment in webberville and we actually had to use a company to satisfy that contract from china. And of course we would have liked to have used a local company. But it's my understanding that they just simply were not available for that project. So when we talk about wages for a solar technician, do you have any idea what that is?

Not for -- we haven't looked at solar technician companies because we've got, I believe, 22 solar technician companies in the area. Those aren't incentivized. What we usually look at that are attracted to austin are solar manufacturing. Those wages average, i believe, about 32,000 to 36,000. But when it comes to solar technicians, those aren't the jobs that we're looking at, those are the spinoff jobs. From attracting a solar manufacturing company. But those aren't necessarily the jobs that are being attracted. Those are for example like the 22 companies take are in austin, they are in austin because there's a high demand for solar installation projects.

Cole: Okay. I just want to make sure that we don't leave off the table considering companies that -- that green industry that would train people to make more money, but they initially come in at less because they simply aren't training. Because that also is part of our goal.

Yes, I would agree.

Cole: Okay.

Just for clarification, the chamber is the lead recruitment and attraction arm for the city of austin. We have an economic development department. Thank you.

Mayor Leffingwell: I'm fully aware of that. Once again councilmembers, we are not acting on anything to look with the living wage or specific wage or salary ranges today, that is an item for -- for discussion on another day. Councilmember morrison?

Morrison: Thank you, mayor. I want to thank everybody who participated in the process that brought us to 11, including staff and bryan rodgers and I see that chamber here and austin interfaith and many others, as the mayor said, this is looking at having a cost benefit analysis to assess the direct and indirect cost and benefits and it also defines a time line for a process for evaluating proposals for economic incentive packages to ensure that there is some time for public review and comments, with a bit of a balance to make sure it wasn't too long that the proposal would go away. But with that, mayor, i would like to move approval of item no. 11.

Mayor Leffingwell: Motion to approve item 11 by councilmember morrison. Seconded by councilmember

spelman. I'll just say on the -- with regard to the discussion about whether or not in the future a component should be added to address minimum wages and benefits, i certainly think that austin interfaith is not fully developed, that discussion is not fully developed and I'm certainly in favor of there being fair, decent, living wages paid and decent benefits paid. I don't know what form that is going to take. I don't know what the right number is at this point. That's one reason that we're not adding it today. We have not developed that information. But certainly there is going to be -- have to be consideration given to some minimum standards. We don't want to -- to relegate austin to sweat shop status. Just to use an extreme example. There may very well be relevant standards that we can develop in a format that can be utilized successfully, by the staff and by the council, to make that evaluation. So I'll be supporting the motion. Anything else? All in favor of the motion say aye.

Aye.

Any opposed? Passes on a vote of 7-0. We'll go now to item no. 15.

Good morning mayor and councilmembers, I'm dave peterson with the city attorney's office. The law department and the aviation department are here to recommend approval of a settlement to the city's claims related to the design and construction of the airport parking garage in the amount of \$750,000 with the engineers of record, and frank lam & associates. This is a partial settlement addressing only the city's claims against the designers. The city's claims against the contractor mw builders and the prestressed contractor are unaffected. The airport terminal garage showed signs of problems such as cracking and spawling of concrete, excessive movements, poor expansion joints relatively soon after opening. After a series of attempts to fix the problems proved ineffective, the city hired outside counsel and experts to assert its claim. The settlement was negotiated with the designers without having to file a lawsuit. Under the settlement the city will receive \$750,000 in exchange for a complete release of all claims against the designers related to the garage. Are there any questions?

Mayor Leffingwell: Questions for staff? And I believe there's no one signed up to speak on this item. Is there a motion? To approve item no. 15? Mayor pro tem moves approval of item no. 15. Is there a second? By councilmember morrison. Is there any discussion? All in favor say aye.

Aye.

Any opposed? That passes on a vote of 7-0. We will now bring up item no. 16.

Council, I'm anne morgan with the dew leapt. I'm here to recommend that you approve the settlement [inaudible - no mic] contractor versus the city of austin in travis county district court. As you may recall from the history of this matter and from the executive sessions that we have recently had, this is a case that concerns the construction of improvements for the expansion of the ulrich water treatment plant in june of 2007 archer-western sued the city for \$20 million in damages alleging a breach of that contract. The parties went to a mediation and have agreed to a tentative settlement based upon subject to your approval. The settlement that we recommend is that the city pay \$5 million to archer-western, 375 million is available from the retainage that the city held for the project. And 625,000 is available from the



approved contingency for the project. The total settlement to archer-western is 3 million and the remaining settlement money 3 comes from other parties involved in the litigation. Recommend that you approve the --

Mayor Leffingwell: Thank you, there are no citizens signed up to speak, so the floor is open for a motion on item 16.

Spelman: Mayor, I will move approval. I have a question of staff before we actually vote.

Mayor Leffingwell: Councilmember spelman moves approved. Seconded by the mayor pro tem. Councilmember spelman.

Spelman: I wonder if you could tell us very, very briefly what the nature of the breach that archer daniels -- went down the wrong rabbit trail. What these guys are saying that we did.

It's really a delay damages claims, how many days the project took. So the defense of the case was to actually model the whole project again and demonstrate that the delay was not caused by the city. But was caused if anything by archer western.

Mayor Leffingwell: Any further discussion? All in favor of the motion say aye.

Aye.

Any opposed say no. Passes on a vote of 7-0. Brings us to item no. 17.

I'm fred hawkins with the law department. I'm here today to recommend a settlement in a lawsuit brought by marvin clayborn and stefan sister for a total of \$250,000 to be divided amongst them in accordance with the mediation agreement. As you will recall, this is a vehicle pedestrian account -- accident the plaintiff sued and subsequently the case went to mediation. The plaintiffs have significant medical bills, but a settlement was reached at mediation subject to council approval. We discussed this lawsuit with you last week in executive session. And went over the law involved. I'm happy to answer any questions, otherwise i recommend that you approve this settlement.

Mayor Leffingwell: Any questions for staff or is there a motion on item 17? Councilmember spelman moves approval. Councilmember morrison seconds. Is there any discussion? All in favor of the motion say aye.

Aye.

Any opposed? That passes on a vote of 7-0. Thank you.

Thank you, council.

Mayor Leffingwell: That brings us to items number 22 and 23, which are related, i believe we can -- we can -- take up together. And I pulled that item because I had just a few questions about it. Thank y, e questions that I have, it's just come to my attention recently, that -- that there evidently has been new legislation passed imposing requirements for vulnerability assessments to hardware and software, which will go into EFFECT DECEMBER 31st, 2010; Is that correct?

Ira jones of purchasing, let me get a technical person. I can answer the purchasing question --

Mayor Leffingwell: I'm not technical either, but we probably need a technical person here.

Mayor, councilmembers, I'm [indiscernible] the chief information officer, austin energy. Your information is absolutely correct.

Mayor Leffingwell: So here -- we're on the verge here -- that is not -- those requirements are not in effect now because the rules have not been developed, but it certainly has been identified as a significant problem.

Challenge.

Mayor Leffingwell: As i understand it. So do you know if the hardware and software that we're about to purchase has been tested for these vulnerabilities, irregardless of whether or not it's required at this point.

There's multiple efforts going on nationwide with the electric power research institute and the department of commerce and an agency by the name of nist, national institute for standards and technologies. Those two organizations collectively with all of the vendors are doing as we speak a lot of testing, deep testing and trials of multiple vendors, software and hardware, to the effect that they meet the -- the fer, federal electric reliability council and the north american electric reliability council standards mandated [indiscernible] critical infrastructure protection needs. So the answer to you is by the time that we purchase this equipment, which starts, you know, the fiscal year kicks off today, and rolls over -- forward, by the time we make those purchases, they are scheduled to happen certainly not all of them happen today, but there will be -- they will be tiered toward the time we will be going back to nist and the other organization to make sure that we are about to purchase pass muster or there will be an upgrade capability to software upgrade to make them compliant.

Mayor Leffingwell: So items number 23 of course do not directly make any purchases. It just a -- you enter into an agreement, a purchasing agreement.

It's the authority to purchase. Yes.

Mayor Leffingwell: So -- but it's basically an agreement with the -- with , the department of information resources with the state?

Byron johnson, purchasing. Actually what we're doing is we are just creating the authority, but we do not have to purchase anything against this until the need comes up. We are just allocating fund for this requirement so this allows us some flexibility to do what you have mentioned which is explore this prior to purchasing.

Mayor Leffingwell: Yeah, that's as I understood it. That would be my concern that I have got no problem with interesting, probably a good thing -- entering, probably a good thing to enter into this consortium for purchasing to save money, but I would want to make sure before we actually purchased it that we do have kind of assessment that has been identified as a threat before we spend 15 or \$20 million on software that might be useless as a result of unevaluated threats.

Yes, sir.

Mayor Leffingwell: So that would be my direction on any motion for approval. I will support a motion for approval of 23, but that we do this kind of vulnerability assessment before we actually make any purchases. So is that understood?

Yes, sir.

Mayor Leffingwell: Okay. Thank you. Councilmember spelman? Councilmember spelman moves approval of items number 22 and 23. And I'll second. Is there any further discussion? All in favor of the motion say aye.

Aye.

Any opposed say no. That passes on a vote of 7-0. Thank you. Moving right along to item 34, pulled primarily because there are certain people who wish to speak on this item. The list has grown, by the way. First speaker on this item is gus pena, mr. pena? Next speaker is mary arnold. Mary arnold. Does anyone have any questions of mary arnold? pena is still not in. The following have signed up 34, but not wishing to speak. Della [indiscernible], mark teronella and rusty walker. pena, please come forward.

Thank you, mayor, for allowing me this opportunity. I apologize for being late, I was out there taking care of business. 34 approve a resolution directing the city manager to recommend a funding source for lions rather than golf enterprise operating fund. Very true statement. I think we brought the issue about - about morris williams and the disparity of funding and repair to that -- we believe strongly that a -- that a different funding source should be made available other than the parks and recreation department funding. I mean they did not get the funding that they traditional get. Of course we know the economic downturn lack of funding, but let's try to find another funding source, mr. mayor. As -- so we don't further deplete the austin parks and recreation department funding source. I think I mean I haven't looked at the budgetary process and I don't have to -- I don't have to attend their budget meetings, it think it would behoove us to look at another funding source. I'm supportive of this, but let's find another funding source and -- and another thing, also, is when we have backup for the item on the agenda, let's have more clarity, more specificity. And language that the -- I'm not too smart, my boy lucio says dad you lack

there, but something that we can understand. The public can understand, there's -- that doesn't know about city council or county commissioners court make it more customer friendly to appreciate it very much. Funding other than parks and recreation department funding account. I think the public will support that, also, again i will say that, don't forget about morris williams golf course, also, I thank everybody that participated in the dialogue and the tours and -- and I will leave it at that. But the city manager, when i mentioned the article i mentioned it as thanks and gratitude about east austin because that has been traditionally left out of the loop on other things, so I want to thank you for that article about the i-35 disparity. Thank you, anyway, mayor and council, if you can find other funding source, appreciate it, thank you.

Mayor Leffingwell: Thank you, I agree with you on your comments about the backup. There is late backup posted to item no. 34, thank you.

Martinez: First I all, I want to thank you and councilmember shade for cosponsoring this item with you. I did want to respond directly to one of mr. Pena's comments. The reason we left this so broad is literally we are asking the city manager to come up with every possible option to free up the half a million dollars that we pay in a lease agreement for lions because as you have mentioned that half a million dollars causes pain and suffering at our other municipal courses such as morris williams that needs sorely needs some improvements. So we're just asking the city manager to -- to brainstorm with us, to come back with his best recommendation of how we can extrapolate that lease agreement from the golf enterprise fund so that we can invest in not only in lions, but in other courses that, you know, we operate as a city. So I want to thank the council for their support. Thank you. Mayor with that I will move approval.

Mayor Leffingwell: Mayor pro tem moves approval. Is there a second? Seconded by councilmember shade. Any discussion? All in favor say aye.

Aye.

Any opposed? Passes on a vote of 7-0. And now we need to -- to -- to backtrack, backtrack very slightly to item no. 32. And we have two citizens signed up to speak on item no. 32. [One moment please for change in captioners] it's more about the overall process and the way in which we're getting there. I don't think we're ensuring broad diversity on each board or commission because none of the councilmembers, it seems, are toward nature with the others. There's -- coordinating with the others. There's no one person at the city to check each person to see if they in fact fit the parameters of the parameters of the board or commission. So in fact this list was 30 this morning. Y'all aren't even seeing these names if you are voting on consent so you aren't knowing who you are voting on unless you are getting an earlier version than the public of the appointments. I had suggested a few weeks ago when we did some changes to city council procedures that we actually look at perhaps doing this all in one shot at one meeting each year that we have a council election and that spawns more appointments so that we -- although council has turned their names in well ahead of time, we have a few weeks to look at those next to vet that out and that would spawn a public hearing, that one meeting in which you do appoint on the total list so we can see this as a total, as a whole. So we're not seeing -- there's

language in the charter that talks about these boards being balanced, being broad in their diversity so that they can adequately participate in the city's governmental process. The one example I did want to cite is something that just hasn't been answered yet. The community has talked about councilmember cole's of babette ellis to the animal advisory commission and her appointment is supposed to have someone who is an animal welfare representative. She owns a dog grooming business and I'm not sure how getting the proper poodle cut lends towards an animal's welfare. Thus far we haven't heard any answer from anybody in regards to that question. And, of course, my -- my -- the thing that led me into this was watching very carefully the appointments to the public safety commission which i, of course, applied for and hope to be appointed to and in fact was told by police entities they were assuming I would be on there when we've been talking about bringing things forward to the public safety commission. But we have several organizations -- [buzzer sounding] -- nobody is representing those organizations. There's a lot of fine people being appointed, but there's no african-americans, no eastsiders, nobody from the organizations, although four did apply from those organizations. I think we need to look more carefully at that, find some solutions, and I appreciate your time. Thank you.

Mayor Leffingwell: Thank you, ms. russell.

Mayor?

Mayor Leffingwell: Mayor pro tem.

Martinez: I think it lender was offered a position on the public safety commission as well as me discussing it with mr. flynn lee. But since flynn is an investigator with the city's department there was some concern by a supervisor in serving in that role. There were at least two apoached. lender respectfully declined because he didn't want to give up his position on the african-american advisory board. So we're doing everything i think we can to ensure diversity and make sure that we have a well represented commission, and with today's appointment of ramey coe by councilmember morrison, we finally have the public safety commission fully appointed. And the mayor and I will be hosting a press conference just to introduce them to the public and let them know this 1 our new public safety commission moving forward. Thanks, mayor.

Mayor Leffingwell: Next speaker is marcella tofoya.

I had a comment.

Mayor Leffingwell: Councilmember cole.

Cole: I wanted to tell you a couple things about my appointee to the animal advisory board. She does represent an animal welfare organization and we have a certified letter on file in the clerk's office to that effect. And I also presented that to the legal department because that actually is a requirement, and I was told that her service was in compliance with the law. And I also e-mailed the ethics commission about that based on your e-mail to me, and i thought that you were actually included in that e-mail. I did not realize that you didn't have that information. And I also wanted to let you know that she is a long-

standing citizen on the animal advisory commission. She started with mayor pro tem betty dunkerley. She was an appointment of mayor lee leffingwell, and now she serves as my appointment.

Mayor Leffingwell: Mr. tofoya.

Good morning. With lulac district 12. I too have concerns over issues when commissions are formed. I will go straight to the point of the public safety task force. I was there for two years as one of the individuals representing lulac. We had asked that organizations such as lulac and naacp, aclu, travis e.m.s. And the police partment also be part of the task force. Although we were told that a lot of those individuals would be coming before the task force. In turn, although the ordinance says may be part of it, I look at the list that was appointed. I don't want to be on it again. Believe me, although I did at one time submit my name. But in reality, two years of work trying to accomplish something and ending up at the other end of it. East austin organizations such as lulac and naacp who defend east austin or defend the community should be somewhere in some of these -- in this commission. We were not added, that's fine. We'll continue doing what we are doing. But I'm just saying lack of representation of people who actually are involved when most of the issues when it comes to safety are in east austin. The high crime rate, the higher drive-bys. We had two in the latino community of which we stood before the police department asking the community to help us with that. And there was nobody else there except us. When it comes to something as important as public safety, east austin is in dire need of help. So by not having somebody there that truly represents east austin community, yes, there is an individual latino there more involved in other issues than what we are, i still say that lack of organizations that do this kind of work not being on these commissions should be considered. And I want to thank you for your time.

Mayor Leffingwell: Thank you, sir. Councilmember morrison.

Morrison: I want to make a few quick comments and thank tofoya for raising this issue. It's important to realize from my perspective anyway our boards and commissions are one of the most important critical elements of our city government and identifying or appointing or nominating for appointments as a councilmember is a huge responsibility. It's also a rather large job. I think it's important to point out that I guess it was in december of 2007 there was a change -- I might have the date wrong. There was a change to our boards. It was before councilmember shade and I got on -- were on the council. There was a change to the ordinance that removed for the most part consensus appointments, and it also removed requirements for representation from most of the -- most of the boards and commissions. And there were reasons that the council did that, but i think that it's -- both of those were probably things that were in the ordinance that helped ensure diversity. I'm not sure they were totally effective. And helped ensure that we achieve some of the things that debie and marcello have brought up. So in a way we're in a learning curve because it's just really the second time after councilmember shade and I got on the council and now councilmember spelman and riley are on the council. I think those are important points. We need to ensure diversity. We're in a learning curve with a new system in place that allows more flexibility and we should all probably -- I hope that we'll all be thinking about and mulling over how we might improve this process.

Mayor Leffingwell: Mayor pro tem.

Martinez: Yeah, I want to speak briefly. My appointee to the public safety commission is native austinite, moses salda no. O. He happens to live in south austin now. Hispanic issues and issues with policing and public safety aren't use east austin issues. They happen all over the city. And so I think part of the diversity you have to take in mind is having folks from different parts of the city. So picking someone who has lift in -- who is living in south austin now, who is an hispanic and who was born and raised in east austin I think is an ideal candidate for serving on the commission. And I dare -- would dare you to find anybody that would say saldana won't serve well with his commitment to the community so I look forward to working with the public safety commission and all the boards and commissions.

Mayor Leffingwell: Isn't saldana also the mayor of south austin?

Martinez: He is. He carries around business cards letting you know that.

Mayor Leffingwell: Council, before we take up on possible motion on this item, I'm going to go ahead and read into the record the nominees to the various boards. First to the 2006 bond oversight committee, moses garcia by councilmember spelman. Paige hill by mayor pro tem.

Martinez:. jennifer McFail by councilmember morrison and dave sullivan by mayor leffingwell. To the african-american resource advisory commission, joy harden by councilmember more roy son and greg smith by councilmember cole. To the board of adjustment, heidi goebel by councilmember spelman. To the commission on immigrant affairs, robert martinez by councilmember riley. To the downtown austin community core advisory committee william kelly by mayor leffingwell. Downtown commission, lynn good guerrero, who is a representative from the parks and recreation board by mayor pro tem martinez. Electric utility commission, gary burnfield by mayor pro tem.

Martinez:. Pro temmartinez. Joseph jody hughes by mayor leffingwell. Historic landmark commission, megan cleon by councilmember spelman to. The pickup says commission ramey coe by councilmember more roy son. And to the residential design and combat ability commission. I would note this contains a waiver for the attendance requirement established by section 2-1-26 for early childhood council board memorial better black is included. Is there a motion to approve item number 2? Motion by councilmember shade. Is there a second? Seconded by councilmember morrison. Any discussion in all in favor please say aye.

Aye.

Mayor Leffingwell: Any opposed? That passes on a veto of 7-0. And I believe, council that is correct brings us to our last item from the morning agenda which is item number 37, this was pulled because several people have signed up to speak on that. And the first is bill thoden. Bill. You have three minutes.

Thank you mayor leffingwell and members of city council for allowing me to speak on item 37 which deals with -- it's a resolution directing the city manager to develop a menu of options to address safety

issues at private construction sites in austin. In my role I serve as president of the austin chapter of the associated general contractors of america. The austin chapter a.g.c. Our members are commercial contractors working in austin, and we've been here since 1946. Now, one of the key services that we offer our membership is safety. And I just wanted to spend a few minutes with you to let you know that we are fully vested in addressing safety issues at austin construction sites. Our full-time safety director, he does job site inspections on commercial sites at the request of our members. Typically a monthly inspections unannounced. He goes in and makes sure that people are wearing their hard hats or safety glasses, they have adequate fall protection, so on and so forth. So that's an important component of making sure that our local job sites are doing what it takes to remain safe. Secondly, he also provides educational training. Typically the 10 and 30-hour osha classes are the most popular. He also offers a competent person classes which focuses on specific areas of construction safety such as scaffolding, fall protection, excavation and others. And he's also -- he also warnings for those classes because he doesn't speak -- arranges for those classes. He arranges for those classes to be taught in spanish given the number of spanish speaking workers in the austin area. Sent a letter to every worker's office and city manager letting you know we have expertise, we have resources. We really look forward to working with you in a dialogue on what we can do to keep our construction sites safe. And I would note, as I do every day, I drive around. Coming over here this morning, I see the two cranes working behind you on a windy day here in austin. I see active construction sites throughout austin every day. And I'm always amazed that, frankly, there aren't more accidents on construction sites. So as we look at construction safety, I just want to put a little perspective and let you know that there are thousands of work hours each day on austin construction sites where people go home in a safe and healthy condition as they were when they arrived on the job site. It's really a tribute to the commitment of safety that many of our local construction companies do put into practice on a daily basis. Is there room for improvement? There always is and that's where our dialogue will take us to come up with those menus of options. And I thank you for keeping attention even in spite of the beautiful baby there on the dais that took my attention away. So thank you very much.

Mayor Leffingwell: Tough competition up here today for competition.

It is.

[Inaudible]

Mayor Leffingwell: Next speaker is gus pena. Gus pena. Gus pena is not in the chamber so that's all the speakers that we have signed up on item -- well, here he comes. Keep that jog pace up, mr. pena.

Again, mayor, I apologize again. Gus pena. Last week tuesday was right after county commissioners court meeting, I went to the veterans meeting, traveling on the bus headed northbound on 9th and brazos. And anyway, we -- there was a construction company, I'm not going on mention on television lazarus on here twice that same company and other companies also, they didn't have any barricades protecting the workers when they were excavating with a backhoe. What some of these workers were doing was there were wrestling with each other. The backhoe was operating, excavating, and it was the bucket was swinging left and right, and these guys were horseplaying around, and one guy was pushed



right next to or near the number 17 bus that I was riding on. Now, I called 311. They subsequently went to 911. Two different incidents occurred on 9th and Brazos and 8th and Brazos where the excavations were being taking place. I'm in favor of this ordinance. Something has to be done to really educate the work others safety issues. The bus driver could have been held liable even though he was not at fault when these individuals were horseplaying around and wrestling. The other one occurred where there were no other barriers. There was not a person observing oncoming traffic to redistrict traffic away from the construction site. So again, there were hispanic workers. I spoke to one of them when i went and got off the bus and they said they had not received any training. Individuals could not speak english. I spoke english and I said has any training been given to you regarding safety issues and not horseplaying around. They said no. Lazarus has that information and the offending company. I strongly urge, urge somebody Lazarus and the department to hold accountable, hold again continuing classes on safety. We could have lost a life right there last Tuesday. You know, and this is not acceptable. So this ordinance is very city manager, mayor and council, city manager, please make sure that the training and education of these workers occur and is appropriate and broad based because some of these workers are not receiving the proper training. They could get hurt and killed. We've already had too many deaths. Councilmember Spelman, you brought that up a couple meetings ago. Individual fell from a scaffolding, killed him and left a fatherless family. Can't have that. Safety is paramount when you do business or a work contract with these companies. Be sure safety training is taking place so these individuals in Spanish, whatever language they are fluent in understand exactly the ramifications of regulations. And this company will be held accountable. Thank you very much.

Mayor Leffingwell: Thank you, Mr. Pena. There are no other speakers signed up. I'll entertain a motion on item number 37.

Spelman: Move, I move approval.

Mayor Leffingwell: Councilmember Spelman moves approval. Mayor Martinez second and I'll recognize Mayor pro tem Martinez.

Martinez: I want to thank my co-sponsors for joining in on this. This is an important issue but in my view it's not something that we're looking at from a mind set of creating more regulatory type of action. As was mentioned, AGC provides training for its members. Hispanic contractors in partnership with city manager Ott and assistant city manager Rudy Garza trained in English and Spanish over 200 employees that work on construction sites in and around Austin. And it's programs like that that we want the city manager to help us enhance to improve the safety of the workers and quite frankly people who are passing by work sites. When scaffolding falls, it not only risks injuring the individual employee, but it could injury other folks in or near the site. So I just want to thank the co-sponsors and city manager.

Mayor Leffingwell: Anything further? All in favor? Any opposed in passes on a vote of 7-0. So council, without objection, the city council will go into closed session pursuant to 071 of the government code for consultation with legal council to take up one item. Item 48, concerning labor negotiations with the Austin fire department. Is there any objection to go into executive session on this item announced? Hearing no objection, the council will now go into executive session. We anticipate being back around

noon.

Mayor Leffingwell: We are out of closed session. In closed session we took up and discussed legal issues related to item 48 concerning labor negotiation with the austin fire department. No action was taken. We'll now go to citizens communications. The first speaker is lee rooney, who wants to speak on underaged drinking. You have three minutes.

I represent the travis county alliance, concerned citizens. We work with underaged drinking and binge drinking in travis county. We are made up of a diverse group of organizations and we partnership with police, sheriff's department, seton family hall of hospitals, youth launch and other prevention specialists such as madd. We're concerned that the community thought about underaged drinking they don't consider it a problem. They see it as a rite of passage. If you look at the statistics, have you to look no further than the 1300 alcohol related motor vehicle fatalities that occurred. Travis county is one of the worst counties in that regard as well as in underaged drinking and binge drinking, which isn't a coincidence. When you look at the drinking patterns of underaged people, they are similar to adults in minors and adults drink the same amount in a given week, but whereas an adult might have one or two drinks at night or a glass of wine with dinner, youth save up their drinking. We're also concerned of unwanted pregnancies in our high schools, illicit drug use and also academic failure. When you look at college freshmen dropout rate, 30% can be directly attributable to alcohol. So we take the population based strategies where we don't tell minors not to drink alcohol, but we try to limit their access to alcohol. We do retail access strategy where we try to teach retailers not to sell to minors, try to teach parents not to give alcohol to their kid and friends at parties. College students not to give alcohol to their friends at parties. You can see it online at don't give to minors.org. We also do presentation such as this to educate the community about the dangers of underaged drinking, and we also do trainings. We're doing one coming up, it's called control party dispersal. It is targeted toward law enforcement. Judges, prosecutors, district attorney's office. Try to get rid of the misconception of police coming down and kicking down doors when there's a party going on. Instead there's a controlled atmosphere where instead of kids scattering and driving off drunk that is correct the police are there to safely shut down the situation and issue citations. So I would like to encourage you guys to attend that. I hope tabc and the sheriff's office is sponsoring that along with us so I think that would be good to attend. And also we have our monthly meetings every tuesday -- or every third tuesday of the month, and this month it's GOING TO BE ON OCTOBER 20th. So I would invite any of you or send some of your staff to see what's going on. We have a bunch of strategies that are pretty interesting and they are working towards preventing underaged drinking and binge drinking. Thank you. .[Buzzer sounding]

Mayor Leffingwell: Good timing. Next speaker is lee -- excuse me, tom jones and his topic is watershed.

Good afternoon, mayor and councilmembers. My name is tom jones. I've been in austin for almost 40 years. And since 1991 I've been in real estate as a broker, realtor, registered builder, member of the builders association often the better business bureau. I've served as president of two neighborhood associations over 14 careers and have performed thousands of hours of community service. I've been building custom homes in a 50-year-old 300 lot subdivision. But when I bought a small grub in 2000, city attorney david smith told me he did not like the state and local law that applied to development there

and would not abide by those laws. Ate law 1704-245 is known as the grandfathering law and mandates the cities may not change rules of development after a project begins when we submitted our development smith says we hate hose old small lots in lake austin watershed and we will fight you every way and if you don't like it you can take us to court and we'll probably win but we'll bankrupt you because we have 59 lawyers on our staff paid with taxpayer money so we don't care. The 1704 application from 2000 was resubmitted approximately eight times before it was finally answered in 2008 when the city declared the entire 295 lot, 50-year-old subdivision illegal stating that none of the 275 existing homes there could be served with electrical meters under state law. The city took some of my land without compensation and made me build an unrequired detention pond along a cliff on pearly soil and provided at least a one-year warranty after which I was released from further liability. The pond failed during heavy flooding because the majority of the storm water in the 50-year-old subdivision drains through the pond cannot hold that volume of water. The entire subdivision drains through an open -- the pond is not required by law and it will not work. The city is now filed a series of 34 bogus criminal charges against me and have filed, dismissed, refiled, dismissed and filed again the string of accusatis against me regarding the pond but not have granted -- but has not granted me a trial on any of those charges for almost four years. They have committed perjury under oath on many occasion. We have a \$700,000 spec home and several lots we cannot sell without electric meetings. Accordingly the travis county appraisal district has assessed a home with a value of \$100,000 and lots valued between 250 and \$1,000. Next year when we encourage the other homeowners in the subdivision to protest, over \$80 million in additional tax value could be wiped off the travis county tax rolls. As a long-term austin employer, I paid hundreds of thousands of taxes and my building company has -- we have been a small but significant employer which is important key recovery of our which you but have been put out of business by city staff that openly chooses to defy the law. This exercise has resulted in untold thousands of dollars in lost staff, productivity. [Buzzer sounding] and potential damages against the city. I'm also a veteran of the united states military and this is not the kind of treatment I deserve from my government. I believe we are all subject to the law and I think taxpayers do care when their money is needlyly squandered. I feel it is incumbent upon this council to serve and protect the citizens of austin and not trample upon their rights. I implore you to look further into this matter.

Mayor Leffingwell: Thank you, mr. jones.

I'll be happy to answer questions.

Mayor Leffingwell: Don bolin speaking on the veterans day parade. Don bolin. Pat valls-trelles speaking on animal issues.

Thank you, mayor and council for the opportunity to speak. And kudos to all of you for your recent objections behalf of animals. I'll say more about that if i don't run out of time. I'm sure all of you saw the stunningly powerful editorial in support of no kill at the animal shelter in yesterday's statesman. Thank you alberta phillips for 5 million budget at the shelter and questioning why our city is not doing better in saving the lives of dogs and cats with that money. When asked how she could do better, she responded I don't know. That response is not good enough. I have three easy suggestions for you that I'm here to request. In order of how easy they are, first, change the animal advisory commission scope to allow the

animal advisory commission to advise you on all animal related matters. I think with the group you have current on commission, they can come up with good ideas and the ideas they have already sent to you they can't even discuss them and they've been told they can't discuss them so if you change the scope they will be able to talk about that and other things. Also in terms of the resolution that councilmember shade sponsored and that you all approved on the donations fund, I would like to see you use this year's donations fund to buy as many bands as possible for austin pets alive or any other rescue group or town lake volunteers to take animals to off-site adoptions and get more of them saved. She has said she doesn't have the staff at the shelter to process any more applications and that a lot of people already walk through there and she doesn't want to release any staff to go to someplace else. Well, if you used the vans to take animals to off-site adoptions, you're going to get more adoptions at other locations. Finally and the most powerful and important and probably the most difficult one but I think you can do it is to direct the shelter management to fix the bottleneck at the shelter that forces animals who have already been selected for adoption to stay there and sit there while the bottleneck holds them up from going out of the shelter. While that happens, other animals died due to lack of space. If the shelter management can't fix this problem, allow austin pets alive in to partner with the shelter and therefore save more animals -- thereby save more animals. I would really appreciate it if you could take these three requests under consideration. I want to thank calm shade for sponsoring the resolution, councilmember speln and morrison and mayor pro tem martinez for your recent actions to get more surgeries done at the shelter and all of you for voting -- [buzzer sounding] -- advocating on behalf of your appointee to participate in the animal welfare summit discussions. Thank you. You all are doing a great job and I think we can do better.

Martinez: Thank you. Our next speaker is brandon mathis to speak about solar rebate programs. You have three minutes.

Council, thank you for your attention. I think you are all aware with what's going on with the solar rebate program so I'm before you today as a ratepayer, a voter, a tax payer and a business owner. And I'm also representing all of your potential customers and customers of the rebate program as well as the majority of the solar contractors here. I've got a few issues and a few options. I think most of the issues HAVE already been gone over in the council or the statesman or you may have heard them from austin energy, but the number one thing that we have an issue with or that I personally have an issue with right now has been a lack of communication from austin energy and our interface with the contract we are them. I think the main point was they knew ahead of time that they were running out of money. And what that really moves into is we have a monthly meeting and we ask how the budget is doing. And the party line, and this is a direct quote, has been you create the demand and we'll fund it. So the demand is here and the funding is gone. The main loser here is our customers, your customers, the citizens of austin. One of the other issues that there's going to be some new efficiency standards that are going to coincide with the solar rebate. That's are going to be released a day before the rebate. And I take serious issue with that and I know I'm not alone in there. Companies are out of business. I could list them for you right now, but I want to get on to options. People are already dropping that we've worked hard to get here. One of the options that I would propose would be a tiered residential rebate program. The cap has come back on at 15,000, but I would like to see a higher rebate for a smaller system and a lesser rebate for a larger system. I just got memo from carl last night. The cap is at 15,000 and I think

that's really going to do a lot of harm. You saw what happened when it was raised up to 50. I don't know if it needs to be that high again, but I think 15 is a little low. If the city -- the city is committed to 100 to 200 mega weights and it changes all the time. It's going up. Here's a rebate than that works where you've got outside investment from people in austin, you've got a federal tax credit so I'm wondering what is going on. Are we really committed or not? Here it is and it's working. I would like to see a ppa program come into effect. It's already going on in other parts of the country. I don't see why it can't happen in austin and it's not going to happen tomorrow, but 2014 or 15 is unacceptable because that's going to get solar on roofs without a rebate. I would like to see larger funding for the rebate. There's a lot of talk about immediate emergency funding. My thing is and it coincides with our city goal is let's get more money in the [indiscernible] area and I'm out of time. [Buzzer sounding]

Martinez: Thank you.

I appreciate it. [Applause]

Martinez: We have received numerous calls and the memo from austin energy yesterday.

Shade: If you don't mind, when he an, could you specifically address the points about the \$15,000 versus \$50,000 question? I'm really curious about that.

Sure. Good afternoon, I'm carl, vice president of didn't I have services at austin energy and I'm responsible for the management of the solar rebate program and my energy efficiency services division. What happened is that yesterday we -- well, yesterday you received -- actually we sent it over when -- yeah, tuesday evening. Yesterday everyone received word that we changed the rebate program for the solar rebate program. And essentially what we did was that we took a big batch of applications -- excuse me -- which had -- for which no commitment had been made by austin energy and we are going to return those to the applicants and we're going to give them an opportunity to resubmit. What happened was that we have a \$4 million budget starting first starting for our rebate program and we had issued letters of intent for over \$3 million in applications when we began receiving a surge and flood and deluge of applications. And we realized that if we continued a pace merely marching through the applications, we would run out of money before the next fiscal year by mid september. So we put the brakes on and we basically went looking for a way to try to equitably and effectively direct the remaining balance as fairly and possible to as many applicants as possible to get as much solar as possible out of that last round of money. What that meant was that in effect, although these were not dates, the last letter was signed around the end of august and the group of applications for which no letter of intent had been issued summed about 5 million and numbered between 130 and 150 applications. Remember, competing for I.a. That last less than \$1 million budget. In order to -- in the changes, what we've announced is that, again, with those applications that have not been acted on will be returned and new - - new application and letter of intent, if you will, program guidelines will apply. Those will include that a new cap on the rebate per watt, that's the size of the system, 50 per kilowatt down from \$3.75. Interestingly, by the way, current module prices are in that same price range. Second of all, a per system cap, the \$15,000 instead of the \$50,000. A side note here on that for your benefit, the number used to be 13,500. It was relatively recently raised to 50,000, and we saw a dramatic shift in the kind

and size of the -- of the application. Just as a point of reference, 2009 we'll have awarded \$5 million, because I went back and found an extra million dollars for the program in the fiscal year 2009. \$5 Million against 250 projects. For fiscal year 2010, \$4 million -- well, that 5 million of unacted on applications only numbers about 150 applications. The \$50,000 limit drove the market very rapidly towards large systems, like 10-kw systems on large residences. And not surprisingly with the drop in module costs, the certainty around federal income tax credits, the size limit raising up so more customers who have the ability to make -- pay their share, you know, sort of more well-to-do customers entered into the markets and bigger systems gobbled up the money a lot faster. So we'll also require energy efficiency standards for all these applications. And while that will be applicable november 1 when we begin accepting applications again, we will certainly get the requirements out long before one day before. We'll -- in fact, we already know the broad outline. 5% Better than current energy code and we're modeling that right now for what measures that would be. And for new homes and for existing homes, it will be participation certificate of completion in our home performance with energy star program. Which, by the way, also have several thousand dollars of potential rebate associated with it for a customer who takes advantage of that program. On the commercial not for profit, the really big system that really even do better an eating up a lot of the rebate program, we have suspended all of those and we will return those applications. And I have committed we will announce new guidelines effective january for those kinds of customers. And we explicitly told people that we're going to try to move the rebate from a rebate of up front based on capacity to a production type payment which we see as the first step towards what the previous speaker mentioned as a kind of a ppa relationship where we can moderate our stream of payments and where we can pay for actual production rather than just up front installation. In federal terms, it would be like shifting from an investment tax credit to a production tax credit and we think the photovoltaic market is moving along for that. We are sort of simms of success. We are victims of success that we instituted by having a highly successful rebate program with a very attractive rebate. We're also victims of success for photovoltaics in general. All of these came together rapidly and what we're trying to do is maintain the equity, the opportunity and the continued momentum of the solar market in austin, which we believe ultimately has to survive without rebates. It's a bit of a overview. I hope I addressed sort of the general item.

Martinez: I have one question.

Yes, sir.

Martinez: So by cutting off the application, did we put someone in a position where they had already entered into agreement with a contractor and anticipated a rebate from austin energy and are now telling them they are not going to receive it?

It is extremely likely they already had a relationship with the contractor. Contractors are critical for helping customers understand size of system come in with approximate preliminary plans that we use for the applications. I think I's almost guaranteed every single one of those applicants has a relationship with a contractor. There is clear guidance on the website, in all the documents and repeated in the contractor meetings that any expectation of the receipt of a rebate is hihly conditional at best because it's just not real until we sign that letter of intent. It's the only way we can official manage against our

budget because that's the date when we ensure that we have funds for the commitment. And I think every contractor knows that and I believe every good contractor communicates that with their customers. That it all depends on austin energy issuing that letter of intent. To highly simplify it for you, you can submit an application without us ever seeing your roof. It's entirely possible that our inspector could actually go out, which we send out on every application, and find out that your roof faces the wrong way. In that case we may require modification of the project or not allow continuation. We do that check between the application and the letter of intent. So we tried very carefully to manage those expectations and to be very clear that there is no commitment made by austin energy until the letter of intent. I also won't deny reality. People go through a lot of effort to get their application put together. They build a certain expectation in themselves and I have to acknowledge this is a disappointment to those 5 million worth of applications that we put the brakes on.

So is it -- is it made clear that there is a cap on the amount that can be given out in a given fiscal year for rebates?

It is clear in our discussions about the budget that our budget amount is \$4 million. We will try -- we won't automatically stop it in case there's an opportunity to get more money, pursuing sometime money that could help or these other program transfers.

Mayor Leffingwell: Is this going to be reset as of today?

It was reset as of yesterday, yes, sir. And what -- what we said is the -- the rebate requirements guidelines, yes, sir.

Mayor Leffingwell: Could. So many of these people who were turned down recently could reapply?

We are -- we have drafted the letter. We will be second a letter and following up with a phone call to every applicant. We notified all the contractors by an e-mail and sent the same memo that you all received yesterday to, you know, sort of laying out the program changes. So we're virtually certain that everyone is aware and we're going to formally do that and follow up and give them an opportunity to talk to program staff for every single application that we are returning.

Mayor Leffingwell: Thank you. Councilmember morrison.

Morrison: Thank you. Any idea on why the deluge in applications that you mentioned?

Yes. There's a whole bunch of reasons. First, as I mentioned, we've seen an unexpected sort of drop and a rather rapid drop in the price of modules themselves and that's a big part of the system cost. 5 down to 2.4 a watt. So that's very significant. Second of all, certainty was gained around the stimulus funding which actually funded the federal tax incentive. And so -- and the word got out and that trickles through the industry and the customers and people understood they could get a federal tax credit associated with it. Third our last time in march when we lowered the rebate, we told them we would try to hold major program changes to the end of the fiscal year, so a lot of our contractors were saying,

okay, if there's a change coming, it's going to come soon. Get your applications in. It doesn't cost you much to do an application so get it in now. Obviously it's in their interest and everybody's interest to sort of rush the process. Saw we saw the rate building in august, building dramatically. Then on the 17th of september we said we need to have a meeting with contractors when we realize we're going to have to cut this off and rearrange the last budget piece. Then we got another million dollars worth and then in the 24 hours before the meeting happened, we got another million dollars of applications. I can't -- and then plus because of that 50,000 limit, the application dollar amount went up as well. So all of it was a perfectly sort of wonderful storm that built on the success of the program but put us into this situation.

Morrison: So one of the problems I have is I think sometimes in the city we've seen before when we're transitioning programs. And some of the folks I've heard from have spent some significant dollars designing -- designing and getting ready to submit their applications. So I do have concerns about that. Would it be possible to put more money into the program and be able to then accommodate some of the folks that already had that work done?

Well, it would be possible. If there was money to appear -- first of all, we've got several applications for stimulus funding applying which are applying against solar initiatives, and they may well provide some budget relief. You can't use federal money for this type of rebate program but it may allow me to move money from one area to the other. The million dollars we found for the end of fiscal year 2009 came from energy efficiency rebates that were unused because of the slow economy in austin. And I would be glad to try to do that again, but I -- i absolute won't take away from those programs unless forced to because efficiency is our first priority but it may be toward the end of the year that opportunity comes up as well. But the real question on just the money is sort of at what level. I moon what we've got is a clear market signal that the \$3.75 was overly generous. And we've got this kind of goldielocks issue with our rebates. We don't want to have a rebate level that's so high that we're really paying people we don't need to the animal get them over the hump of deciding to do solar systems. But at the same time if it's too low, the joke I make it's kind of like the money you save from geico, everybody stares at it. It's a tough place to be to set the right rebate level. And in fact, the difficulty comes from the dynamics in the market. The market is changing so rapidly that every rebate level you sit is practically going to be wrong. Remember, the program did not sell out before 2009 at relatively high level. Now the market is accelerating and I think personally that motivates me to move to a production and incentive type relationship sooner rather than later.

Morrison: Yeah, and i certainly appreciate. That I think the items that you listed out say that it's time to reevaluate and look at the program. I'm concerned about the folks that have been caught in the middle. And the other thing I want to mention is I know I've often duncan say that we are -- our rebates are investments and our investment is supposed to pay off by saving us from having, for instance, to build another power plant. So that means that we need to certainly adjust it. Anyways, last question, does the council play any part in approving any part of this program and any part of this change?

Well, certainly the budget for this is included in the annual budget. And we're always interested obviously in any of your ideas you have to make it better.



Morrison: Of course.

This is treated generally as an operational decision to set the rebate level and modify it. We will be briefing the umc taken rmc. We do prepare a monthly report to the resource management commission that specifically details how many letters of intent, how much money is spent. But sort of this is one we really own. We deliver it to rmc and i think that's where it ends. We're going to start -- what we're going to try to do is change the date of our contractor meetings so they come right after the rmc meeting and distribute the same report to our contractors once a month so they really do get that better information. It's been there, we just haven't been very good about making sure they have it all the time the same way our rmc receives it. Last thing I'll mention, by the way, one of the key reasons from going from 50,000 to 15,000 was looking at that big pool f applications, obviously reducing the total amount for a project should enable us to satisfy more applications than otherwise. And we know there will be some customers who can't go forward under the ne requirements or this doesn't meet their personal threshold for payoff, but at least by lowering that number we can spread the money a bit further.

Morrison: Yeah, one example of a concerned citizen that I heard from, it was their church that had actually gone through a lot of trouble to design it and now it's -- it's not an option for them right now. So I hope we can think a little bit about the transition for the folks that have been caught.

We're going to work with all the stakeholders. We've asked them to commit our time and effort to engaging not only on this adjust independent in the fiscal year 10 program but a plan for working out of the rebate and more of a market based program.

Morrison: Thank you.

Mayor Leffingwell: Councilmember spelman.

Spelman: You mention add few moments ago that the cap from 13-5 back to 15. But within that cap we're paying a flat rate for each kilowatt. Is that correct?

Per watt. So you can get -- you can get the payment per watt up to the project max.

Spelman: Exactly.

Which has the effect of limiting the project.

Spelman: Another way of accomplishing the same objective of moving to a few large systems to more small systems would be pay more for the first few watts and progressively less per watt. mathis' suggestion.

I like that idea. I want to look at that both in the context of what we do on the pay for performance side because I think there might be a way to integrate that or tier those kind of things so small nonprofits get treated differently. I think that's a great idea and I definitely want to explore that as we go beyond fiscal

year 10.

Spelman: That's probably not something you can implement in the next fiscal year before the one after that.

Given what we're talking 5 million appetite for the less than million dollars funds, but it definitely needs to be on the table.

Spelman: Yes, sir.

Mayor Leffingwell: Councilmember Riley.

Riley: I think you mentioned that there's still about 700,000 left in the 2010 budget.

And we're hoping to make it more t inspectors are feverishly trying to get things into the '09 so we can reduce that down. It could be as much as a million dollars total.

Riley: And I appreciate the utility's interest in moving more towards a production type credit as opposed to investment credit. Can you give us a general overview of how you would foresee those remaining funds in the 2010 budget being distributed and what timetable?

The way we see it mad cow is probably customers will figure out whether on the residential side whether or not they want to reapply fairly quickly. They've done enough work. Understand the size of the system. They can in most cases although it may require some modification, they can reduce the size and go modular down. I don't have implications, but at least they will be able to think about it. We expect we'll get ought the applications on the residential side in about that first month or so after we reopen the process. It may take longer depending on the timing for getting the energy efficiency upgrades for evaluations that they may need. I think maybe by tend of the year at the latest we'll know about all the residential. Remember, by the way, that we did already commit this three plus million dollars worth of work that will start in fiscal year 10. Three-quarters of a year's budget is committed and that work will continue. And I should say we also normally require that those projects be completed in 120 days to give the contractors some flexibility for spreading their available work out. We're going to allow those projects to go 270 days. So they can manage work crews and receivables and all those things. The onlier two pieces of budget are the reserve we're putting aside for solar systems for hot water, \$2,000 apiece, and reserve about 50,000 for that just in case we can get those. That's also a place we can transfer funds, but I've had people say they really want to do those now. We're going to maintain our commitment to that. Then I wanted to reserve about -- I'm reserving 1 hundred thousand dollars for the commercial and nonprofit larger systems. And that money if it goes out in the production mode could actually be the equivalent, practically speaking, of almost another million dollars worth of upfront rebates. Right? Because by paying for the kilowatt hours produced, stretching it out as a commitment to pay that amount of money for, say, somewhere between 5 and 10 years, we can 5 per warebate by paying, say, 20 or 25 cents a kilowatt hour for that number of years. We're going to work those numbers out with stakeholders and staff. So that 100,000 could leverage, again, another sort of

million in total. And we'll get that worked out and decision and announce that no later than January 1st so those projects can be revisited toward the end of the year. We would normally report that to RMC, but we'll keep you apprised of it. We have regular monthly contractor meetings and we're going to reschedule and we'll keep that going. We'll have the other stakeholders' processes as well.

Thank you very much.

Mayor, I have a couple questions.

Mayor Leffingwell: Councilmember Cole. Councilmember Cole I just really appreciate your handling sort of emergencies when they come up because we get calls and we try to deal with consumers. A lot of times we don't think about all of our long-term financial implications and the overall health of the utility. [One moment, please, for change in captioners]

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if you produce this many kilowatt hours, we will pay you this amount of money over this number of years. You know, each year that you produce them.

Cole: Hold on a second. You have an expertise here that I'm trying to learn a little more about. So are you saying to the extent that you become more efficient, we'll give you some type of credit for that?

No, what it means is that when your solar system -- the solar system on a roof is essentially a power generator, right? The way it is today, we're giving people up front cash to put a power generator on their roof. They chip in a little of their money, federal tax benefit, suddenly they are a generator. They are eating most of what they generate. Of course. And we have net metering to deal with the balance issues. I want into that right now. We're trying to sort of kick start the market by providing that piece of money that gets them over that investment decision hurdle. When the market matures and quits changing rather rapidly, we would rather be on other side of the equation, where we pay them for their production instead of an up front they give -- we give them a little bit per kilowatt hour per unit of energy that they actually produce. That would end George W. Bush them to be more efficient in their home because they would have excess electricity to sell us and they could directly make that financial comparison. It would be acting like a generator, like their own little mini power plant. What's nice about that is that we can adjust that rate by market conditions. Right? Much more easily than a rebate you announce at the start of the year and live with no matter what happens or try to live with no matter what happens. Over time we want to change that. What I have discussed generally we will discuss in detail are things like changing the price like with an auction. Basically saying who can give me the most kilowatt hours for the lowest subsidy and doing that on a periodic basis so we can follow the market as it moves in price or changing the time, you know, from shorter time to longer time. One of the problems with the solar systems even with the generous rebates it took five or six years to pay them off. With our lower rebates it could take a couple of decades in some cases for some of these systems to pay themselves off. Maybe we can accelerate that a little bit giving them the rebate over 10 years to accelerate the effective pay back rate for the base investment. So there's a lot of little factors that we can put in here. We are very interested in exploring them to get us into this newer model where we presume there's a lot of solar in the community.

Cole: I certainly understand that the federal stimulus money is not predictable and that adds to the uncertainty factor. It really makes it difficult to actually produce an economic model that we can even effectively monitor. To know what's going to happen. I want you to know that I support your idea of trying to move from a rebate to -- system to more of a market type of system just so we can try to protect with all of these decisions that we're making that have huge impacts on the financial viability of -- of Austin

energy. On a continuous basis.

And long term.

And long term.

Yes, thank you.

Cole: All right.

Mayor Leffingwell: I think we're all fully aware that the entire business model for austin energy is going to evolve over the next few years. That will be very significant. Thanks.

Very much so.

Thank you.

Rae nadler-olenick, speaking on water fleur addition and citizens

Good afternoon, mayor leffingwell and councilmembers. Last week I spoke at the first citizens communication since the council's august 27th vote to limit an individual's speaking opportunity to once in four meetings. The vote had been billed as a move to open up citizens communication to more people and attract new voices. Yet the roster included just one newcomer and six who " among latter, three spoke on my own subject, water fluoridation. I was actually surprised by that embarrassment of riches, but two of us had been added late because a week after official signup there were still speaking lots open. Today I'm here for the same reason. Unfilled space on the roster. Perhaps things will change as more people learn of the new policy, but that's how it stands at the moment. It's not my intention, now or ever, to interfere with anybody else's chances, those of us who appear here regularly have a variety of ideas to express. My particular ongoing purpose is to call attention to a very serious health and environmental issue that usually gets short shrift. My talks are set up as an educational series that covers ground each time. I heard some grumbling that certain few were hogging all of the time slots and however I've talked to the ladies in the city clerk's office who handle the signups, I can tell you there is absolutely no bias in their procedure. Requests are handled in the order received, period. This game has only one very call or e-mail or sign up in the office at 9:00 a.m. sharp. Whoever does so, will be on par with the regulars as far as getting in. Once I called in 20 minutes late and I didn't get to speak. That's the way it works. Back in the 1990's, the council offered many more citizens communication opportunities than it does today, including an afternoon forum. Restoring some of that access might encourage more wide-spread participation and turn citizens communication into the robust public platform it could be. Thank you. [ Applause ]

Shade: Thank you for your comments. I do want to mention last night I was at an event at solar picnic at mueller. I had more than a few people tell me that they would like to have sign up to speak and it had filled up. Please understand that we're not -- it's a little bit of a crap shoot. We never really know what's

going to happen and when there's a sense of urgency about an issue that happens 24 or 48 hours before a meeting, it's difficult when we don't allow -- when those folks don't have an opportunity to come. Please understand that our motivation is to increase participation, not to decrease it. I just have to say it again. And, secondly, I think most of the councilmembers, i think all of us have very active office hours where it's very easy to get appointments with any one of us. I think -- and I certainly can speak for my own office, I know my colleagues are also very readily available, that wasn't as common of a practice in some of the years past that you described. So I would like to point that out as well, thank you.

Carolannerose kennedy. Is not in the chamber. Ronnie gjemre, speaking on peace and freedom.

Okay, thank you, mayor, it's ronnie [inhale] reeferseed,. And that's how I choose to pronounce my name, if you haven't heard it. But how is this hopeless quagmire of -- of futility now suddenly obama's war of necessity. Necessity to do what? Punish some group of civilians, that's a war crime. To punish some poor civilians just because they are ruled by a tyrant that happens to be out of favor with washington right now, who wins? ? No. How about those afghani civilians, no, they are not winners, how about our civilians? No, the military industrial bankster media complex of criminal those are the winners. How do we stop this continual insanity? We need to speak our minds, get active. Don't wait for some election day to express yourself. Don't wait for permission to revolt from our corporately controlled need. Why? Because the organized crime corporate prostitutes can't think beyond their next trick, in other words the future of life on our garden planet. That's not their concern. Why not all of us instead think about our future. Think about how our continual conservation of precious topsoil is absolutely vital to preserving our own lives as we know them into our hungry future. And why? Because topsoil is crucial to virtually all food production and as we know it everybody has got to eat. Freedom is the answer. Absolute, total freedom for farmers from thugs means less crime, lots of less money for criminals means less money for corruption, for killing people for crimes across the board. Everybody wins. Therefore absolute total freedom for farmers is crucial to the continual survival of life as we know it to help ensure a more happy outcome for all of us. Again let's take a moment to decide to do something while we still can because really the time is now. Now is the time to contact our schemers, I mean leaders, about the continued -- contagious enthusiasm sweeping our entire world for ob/gyn ron paul's hb 1207 call for an audit of our supposedly unapproachable fed. With almost 300 cosponsors for hb 1207 in the house, last time I checked ob/gyn's ron paul's delivery of your nation into the new world of freedom from the bang center criminals bodes well for the future proudly as our constitutional republic. To learn more call 888-322-1414 for weekly updates from dr. paul. 888-699-News. There's killing granny that there's the death personals right there. But 888-699-news. 63978 To subscribe to measure free rest not controlled by the corporate criminals online visit [www.ronPaul.org](http://www.ronPaul.org) CAMPAIGN For liberty.com. [www.americanfreepress.net](http://www.americanfreepress.net). [www.infowars.com](http://www.infowars.com). And locally alex jones six days a week, thanks a lot, lots of good programming, 90.1.

Mayor Leffingwell: Thank you. Gus pena on city issues.

Mayor, councilmembers, randi shade, let me tell you something, I waited one week and one day, eight days total, after you had the opportunity to sign up, i called and said, please tell me I'm not on the list to

speaking. Oh, no, there's only six people signed up. Guess what, randi? There goes your theory. There's still opportunities to sign up. So I -- I abated myself, moved back up and said okay I'm going to give others the opportunity because they claim that we take their spot, don't give them an opportunity. As ray said, I called at 9:00. Everybody else has the opportunity to call. Everybody has the opportunity to come over here. You have equal opportunity when you do not allow equal opportunity to somebody to assign up and that same moment give the opportunity to be placed on the list, that's discriminatory process. Let me tell you something, i hope this is related to mr. David smith, but I found case law, I'm a former federal eeo investigator, i know my job. I did it well for the department of treasury. I leave it at that because I'm thoroughly disgusted with that situation. Anyway, capital metro, metro chief to retire. Thank the good lord. About time. He says gilliam said no one asked him to leave. If the early retirement had not been available gilliam said he would be leaving. That's not true. I want to thank you councilmember riley voting appropriately at the board meeting on certain issues over there. I want to thank ben wear of the austin american-statesman of doing a good job of reporting the fallacy, also lee nicholson doing likewise because competition is great. We have been fed a lot of inaccuracies by capital metro's cf -- president, ceo fred gilliam, and randy hume, scheduled to take over in the internet. Can't have business as you recall. You cannot use funding that's specifically slated for city infrastructure repairs and using inappropriate on other issues, that is not acceptable, that's a federal violation. Reduce the dropout rate. Mayor lee leffingwell, i can't remember who else was on that trimeeting, with austin independent school district and the county commissioners court representatives, the dropout rate is high. I was appointed to the austin independent school district's dropout prevention task force by in forgione came about. The following month they hired an ombudsman for that position. Dropouts are having a catastrophic effect on the budget. Money could go elsewhere. We need to save our youth, educate them to enter the society, productive, educated members of society. We need more mentors and tutors, especially in math and reading. Councilmember spelman i challenge you and everybody else to please find us more mentors and tutors, they need help out there. Thank you all very much. Have a good afternoon.

Thank you, mr. pena. Paul robbins. Paul robbins. Paul robbins is not in the chamber. And those are all of the speakers that are signed up for citizens communication today. So -- so we have nothing else that we can take up, 00, our 00 time certain for zoning cases. So without objection, we're in recess until 2:00. [Indiscernible] for public hearings. So what's your pleasure, council?

Mayor, I move that we consolidate all of this to one time start and just come back at that time and keep working through until we get done.

Any other thoughts, councilmembers.

I concur.

> Mayor Leffingwell: We could -- if you want -- you know, I'm open to suggestion. We came back after live music and proclamations, that would work if that's what you want to do. However, you know, there are folks who are -- who are -- who are expecting to be here 00 for -- for --

Morrison: My understanding of the situation, we did have one case that we'll be discussing.

At 2:00.

Morrison: At 2:00. However, my staff was in a meeting with them and there was an agreement negotiated, I suppose they are all going to want to be down here to make sure all of the I's are dotted. 00 right now. So -- so I -- but the -- but the -- there is a signed restrictive covenant, so we'll -- we'll do our best to get ahold of them and hopefully not inconvenience 30 sounds good.

Mayor Leffingwell: Okay. Council, I'm -- I'm getting the sense here that -- that , is what the folks want to do. Do I hear any objection to that plan?

We have certainty that there are no discussion items in the 2:00 zoning?

It's never certain. Never certain, that's -- that's pure speculation.

Spelman: I'm concerned with people coming in at 2:00 and waiting four hours.

Martinez: I will withdraw my motion, mayor. It's almost 1:30 anyway.

Mayor Leffingwell: Well, I'm glad you guys finally came around to my way of thinking. We'll go into recess and reconvene at 2:00 p.m.

Thank you.

You looked like you were about to blow a gasket.

we are out of recess. And now we will take up our 2:00 zoning cases. The first case will be item 49, we'll already have the -- had the public hearing but I hi there's been no developments.

There have, I'm greg guernsey with the planning and development review 00 item where the public hearings have been closed our first and only item is 49. C14-2009-0059 - texas association of nurse anesthetists - approve second/third readings of an ordinance amending chapter 25-2 of the austin city code by rezoning property locally known as 888 banister lane (west bouldin creek watershed) from family residence (sf-3) district zoning to limited office-mixed use-conditional overlay (lo-mu-co) combining district zoning. This is on for 2nd and 3rd reading approval. I am in receipt of an agreement between the neighborhood and the property owner regarding this property. In general it speaks to the owners nor successors or assigns would protest against a zoning rollback on the property to a residential classification. Two, that in the event the owner ceases to use the property for an office, it they will not sell and be lease for a residential purpose only. If the structure which currently exists on the property is demolished, the new structure would comply with our large house or McMANSION REGULATIONS. And in addition, there is a fourth clause that the owner and the association would agree to meet at least every five years, to review the circumstances and if there are any existing in -- in



the surrounding neighborhood, and evaluate whether the continuing existence of the restrictive covenant or parts would remain reasonable and necessary. And there are parties here on behalf of the owner and the neighborhood that have signed this agreement. I think you have a copy from the owner, possibly, on the dais. With that I would offer this for consent approval.

Mayor Leffingwell: guernsey, i presume that you will facilitate that agreement five years from now greg guernsey actually the city is not a party to the agreement.

Councilmember morrison.

Morrison: I want to thank everybody involved in this case. I know it looked like things were almost not going to work out, for everybody to come to the table and work really hard, I think that really shows a great, good faith effort and perhaps it's not perfect from anybody's point of view, but it's the kind of situation that is I think really heartening in this city that we can find something like this. I would like to thank staff and I want to particularly thank my staff who help to negotiate -- helped to facilitate a conversation yesterday that I think came to a good conclusion. So with that, I would like to move approval. Of theoning --

Mayor Leffingwell: Councilmember morrison moves 49 on second and third readings. Seconded by councilmember spelman. I want to thank everybody, so just everybody concerned.

It was really the neighborhood, the agent, your office, staff just kind of stood by and watched.

Mayor Leffingwell: Well, we will thank you, too, anyway for watching so well. Any further discussion? All in gave say aye.

Aye.

Any opposed? That passes on a vote of 7-0. No, mr. guernsey -- now, mr. Guernsey you can take us through those zoning cases for which a public hearing has not yet been held.

Thank you. Let me go through our consent items I can offer you for this portion of your agenda. 50, c14-2009-0069 - cap'n property locally known as 11007 fm 2222 (west bull creek watershed) from single family residence-standard lot (sf-2) district zoning to community commercial (gr) gc combined district zoning with conditions. The zoning and platting commission recommended that gr co zoning with those conditions, this is ready for consent approval on first reading only. 51 c14-2009-0077 balcones place known as 5011 balcones drive staff is asking a postponement. Zoning and platting has yet to review this case, we are suggesting a postponement DATE OF NOVEMBER 5th, 2009. Public hearing . C14h-2009-0012 - baker-allen house at 2402 harris boulevard to zone the property sf 3 h. The planning commission recommendation was to grant the sf 3 h zoning and this is ready for consent approval on first reading only. 53, c14h-2009-0014 - mcgee-clark-byrd house - at 1520 north wood, to zone the property sf 3 h, the zoning and platting recommendation is to grant, ready for approval on consent first reading only. 54, c14h-2009-0015 - gardner house - conduct a public hearing and approve an ordinance

amending chapter 25-2 of the austin city code by rezoning property locally known as 2418 jarratt avenue (shoal creek watershed) from family residence (sf-3) district zoning to family residence-historic landmark (sf-3-h) combining district staff ready to first reading only. 55 ralph and anna cloud house - 1718 summit view place. Sf 3 h, ready for consent approval on first reading only. 56 c14h-2009-0021 - jackson-novy-kelly-hoey house, 2406 harris boulevard, to zone to sf 3 h, the planning commission recommendation was to grant sf 3 h ready for consent approval on first reading only. 57 c14h-2009-0022 - thomas house atmosphere 1603 nails road the request to grant sf 3 zoning, planning commission recommendation was to grant it, consent on first reading only. 58, c14h-2009-0023 - webster house, 706 oakland avenue. (Mf-4-np) district zoning to ready for consent approval on first reading only. 59 c14h-2009-0024 - aycock house atmosphere 1405 hadenn avenue. Sf 3, ready for first reading only. 60 c14h-2009-0027 - potter-pincoffs house - request for sf 3, planning commission recommendation was to grant sf 3 h zoning also ready for consent approval on first reading only. That concludes all of the items that I can offer you at this time, all for consent approval.

Mayor Leffingwell: Thank you, the consent agenda is to close the public hearing and approve on first reading only item 50, to postpone until NOVEMBER 5th, ITEM NO. 51, And to close the public hearing and approve on first reading only items 52, 53, 54, 55, 56, 57, 58, 59, and 60. Is there a motion to approve? Councilmember spelman moves to approve the consent agenda. Seconded by councilmember cole. Any discussion? Councilmember spelman.

Spelman: I notice, greg, all of these issues are only available to first reading. Is there some reason why they were not available for all three readings or some of them were not.

We have the ordinances prepared but we will bring them back to you in about three weeks for consent approval, that should be in time for them to meet the deadline by the end of the year for -- for tax -- relief, for zoning the properties historic.

Spelman: It's just a matter of how much time it takes to get the ordinances together?

That's correct.

Mayor Leffingwell: All in favor say aye.

Aye.

Any opposed? Consent agenda passes on a vote of 7-0.

Mayor, that concludes our zoning items for today.

Mayor Leffingwell: All right.

Now we have a -- a -- a technicality that arose on item no. 39. I will recognize councilmember cole.

Cole: I would like to make a motion to reconsider item no. 39.

Mayor Leffingwell: Councilmember cole moves to reconsider item no. 39. I will second. Any discussion? All in favor say aye.

Aye.

Any opposed? Motion to reconsider is approved on a vote of 7-0. Councilmember cole?

Cole: I just simply want to -- recognize there will be a proclamation 30 today to taylor dudley by councilmember morrison and councilmember shade, but i will be unable to attend, but I want to take the time to let the councilmembers 39 was actually a -- a replacement of taylor dudley having to leave early because of family issues and corey phelps will be taking his place. Thank you.

Mayor Leffingwell: So is that a motion to approve the resolution as distributed in the late backup for item no. 39.

Cole: Yes.

Mayor Leffingwell: There is a second? Seconded by councilmember morrison. Any discussion? All in favor say aye.

Aye.

Any opposed? Passes on a vote of 7-0. Council, there are no more items on our agenda until our -- our public hearings 00 so without objection, 00 p.m.

it known that whereas charities provide a vehicle through which contributors, volunteers and community agencies can work together to support a comprehensive way of health, education, environmental, social, justice and service programs for central texas, the east central texas community as well as our broader statewide and international communities. And whereas the city of austin combined charities combine has raised close to \$9,050,500 for the community since 1993. And whereas we encourage all city employees to lend a hand, make a difference. Try to contribute generously to the charitable agencies of their choice. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim october 2009 as the city of austin combined charities campaign. So thank you all again, and karen, you get to be the proud recipient of this proclamation. Would you like to say a couple of words?

Yes. Thank you. Thank you, mayor. Standing with me are some of the key people who work hard to make this campaign successful. And I just want to acknowledge them. We have our campaign managers from earthshare texas, edi mullburger and max wilson. They do a tremendous job for the city. And we also have our citywide coordinator who has done this for several years and has kept from chair to chair all the activities going smoothly, jo beth princess. Thank you, jo beth. And from our executive

steering committee we have sam and glory from the public works department. So thank you all for being here today. Today we begin a month long campaign, and this campaign, as the mayor said, raises hundreds and thousands of dollars for a number of charitable organizations. The city actually has 500 screened charities that participate in our campaign. No doubt about it, the city of austin employees historically are very generous and our campaign has received national recognition for the fairness and the equity with which we screen the charities and distribute donations. And also the structure that we have? -- That we have in place where the departments basically run their own campaigns, but we have a corporate steering committee. As the mayor said, since 1993 the city of austin employees have actually donated over \$9 million to charity. And that is not small potatoes. That's big bucks. Last year we set what we thought what may have been an overly ambitious goal of \$750,000. And at the time we were seeing the economy begin to downturn, but even in the face of the economy, actually we raised \$761,000. So we exceeded our goal. And so those are the kinds of results we've gotten from year to year. And as the mayor said, all the charities, from large to small, this year are facing even greater challenges, and we know that. They've had to cut back while at the same time the demand for their services has actually increased. So we feel this campaign, as in all years, but it's particularly critical this year. So we're looking forward to meeting or exceeding our goal this year of \$700,000 and we are off to a great start. I have to tell you, we've already had events today on day one of the campaign, and I understand we've already received a small number of pledges on the very first day. We've received over 10 pledges from employees. And some of them are electing to roll over the same amount this year that they pledged last year. So we're very encouraged by that. Tomorrow there's going to be an event at city hall that some of the city hall coordinators have put together where we're having an agency fair in the atrium. 30 to 12:00. And we'll have the charity representatives in the atrium so that downtown employees can come and talk to the charities and find out more about the different organizations. So based on the campaign -- so based on the campaign's track record, I'm very confident that the spirit of giving that our employees embrace will make for another successful year. Thank you. [ Applause ] [ applause ]

Mayor Leffingwell: We're here to talk about, i guess, an unpleasant subject, domestic violence. The did side of this subject is -- the good side of this subject is that we have some very dedicate folks here in austin to provide services to those who are victims of domestic violence. I'mspeciay impressed with the physical facilities that I have seen at safe place, and I hate to single you out, julia, because i know you all are involved in this, but just two weeks ago -- was it two weeks or three weeks? Something like that. I actually toured the facility out there. And I was -- it is a secure facility, of course, but i was very impressed with once you get inside of the security apparatus, it has a very homey feel. It looks like a neighborhood street in austin, texas, a pleasant neighborhood street. So I think that's a big part of it is to make folks not only feel safe, but feel comfortable and feel at home. And I think you're all doing a great job of that. And I so much appreciate what you do. And we talked a little bit about charity with the last proclamation, and it is so important that we continue to support these nonprofit organizations that provide that essential social safety net for those in our society who are needy or happen to be victims or whatever the cause for their need is. So I will read this proclamation and present it to you. It reads, be it known that whereas one in three women will be a victim of domestic violence in her lifetime, and texas generates the second highest volume of calls for the national domestic violence hotline, and whereas

the verizon wireless hopeline program was launched to support survivors of domestic violence in the communities it serves and it has collected more than 6 million phones nationally to provide a life line for survivors of domestic violence. And whereas the hope line program has distributed more than 76,000 phones and more than 228 million minutes of free wireless service to victims of domestic violence and has awarded \$7 million in cash grants to organizations around the country that work to end domestic violence. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim october 2009 as hopeline domestic violence awareness month in austin, texas. So thank you all again and congratulations. [ Applause ]

hi. My name is brent carter and I'm with verizon wireless. On behalf of verizon wireless I would like to thank mayor leffingwell as well as city council for their support in this important endeavor. Additionally I would like to thank safe place for their commitment to work with us and help end domestic violence. Thank you very much. [ Applause ]

Mayor Leffingwell: For the next proclamation I'll bring up councilmember randi shade. Welcome, randi.

Shade: It is my honor to present this proclamation. Be it known that whereas binational health week reflects coordinated efforts , mexico, he el salvador, guatemala, ecuador and peru to improve the quality of life for under served populations if for access to health care and whereas our country is home 5 million people of latino origin, many of whom are mobile populations requiring multiple approaches in service design delivery, funding priorities and strong binational commitments. And whereas outreach efforts during binational health week and year-round focus on insured and underinsured populations for available health services, now therefore I on behalf of lee leffingwell, mayor of the city of austin, texas, do here by proclaim october 3 through the 15th, 2009 as the ninth only binational health week. And it's my pleasure to present this to you. And I look forward to hearing more about the activities of the week. [ Applause ]

thank you, councilmember shade and the city council. As the proclamation failed to state, this is actually the ninth annual binational health week and austin's fourth year of participation. The mexican consulate here in austin is the main planning organization. We're pleased to offer free health screenings and preventative health education for the latino population in central texas. We collaborate with a lot of great health organizations and nonprofits and charities, as mentioned, to offer free health tests as well as education on health issues affecting the latino population. Those services will be available at our health fair next week, and our other bilingual events this year will include a regional soccer tournament this sunday. The health fair at the consulate on wednesday, as well as a number of different workshops throughout the week on topics such as stroke prevention, nutrition, breast and cervical cancer and the prevention of alcohol abuse in the latino population. More information can be found easily through the city of austin website on the health and human services department page. So we thank you very much for your support of these health efforts. [ Applause ]

Shade: Next I'm looking for is it toni silver? Thank you. Come on up. It is my pleasure to present this proclamation. Be it known whereas central texas voluntary organizations active in disaster was established in 1996 with 60 partner organizations whose goal is to maximize resources available to

those affected by disaster. And whereas members of the organization provide services and minimize duplication of effort while addressing the four phases of disaster, preparation, response, recovery and mitigation. And whereas the members include faith-based, social and human service organizations, emergency, communication and donation management organizations, animal rescue groups, public safety and partners and business partners. We thank them for their assistance when catastrophic events strike our area. Now therefore I on behalf of Lee Leffingwell, mayor of the city of Austin, Texas, do hereby proclaim October 8th, 2009 as Central Texas Voad Day. And I thank you so much for the important work that you do. It's my pleasure to present this to you. [ Applause ]

I'd like to tell you a little bit about Central Texas Voad or Voad in general. After Hurricane Camille, all of the different faith-based organizations that wanted to respond to that disaster got together after the event. Because there was a lot of duplication of services that happened and a lot of people that fell through the safety net because we didn't notice them. They sat down at a table and they kind of bartered out the jobs so that they were sure that the people that needed clothing received it. The people that needed to be fed were fed. The people whose homes had been destroyed afterward they were seen to. And the different agencies took on themselves the jobs to volunteer to do that specific slice that they were interested in doing. Now in Central Texas we have about 60 partner agencies that step up and say that they will take a piece of the pie that needs to be solved so that people don't fall through the safety net and so that services are not duplicated. We thank the city of Austin for allowing us to receive this proclamation and we're very proud to serve during the disasters that occur and afterward. Thank you very much. [ Applause ] I forgot to introduce Raul Munoz with Salvation Army and Sheryl Lasster with the volunteer mobile emergency response unit. And I myself represent American Red Cross. [ Applause ]

Shade: Councilmember Morrison, and now we have the great opportunity of presenting a distinguished service award to Darrell Dudley -- to Taylor Dudley, which is joined also with Mayor Pro Tem Mike Martinez. And I think there are some folks out there who will be joining us in a minute. I don't think that the office of the city auditor and the importance of it can be overstated in running our city government and being part of our city government in terms of ensuring effectiveness, efficiency and integrity. And today we have the bittersweet situation of saying good-bye to Taylor, whose been here for 19 years. It's been an amazing challenge -- to step in and fill someone's shoes who Steve Morgan left. And the transition has been very smooth. His measured demeanor, his expertise I think has really carried us through and I really appreciate that -- you meeting that challenge for all of us. I've only had the opportunity to know you for a little over a year. We have a distinguished service award for you here that Councilmember Shade is going to read. And then after that I think we're going to get to hear from some folks who have known you for a lot longer than a year, if that's okay. Do you want to go ahead.

Shade: I almost didn't recognize Taylor today because he doesn't have a Diet Dr. Pepper with him. [ Laughter ] He's a man after my own heart on that one. It is my pleasure on behalf of the council to get to present this distinguished service award for 19 years of outstanding service to the city of Austin in the office of the city auditor. Taylor Dudley is deserving of public acclaim and recognition, starting as an unpaid volunteer in 1990, Taylor worked his way up the chain of command to retire as city auditor. I proved the office through technology, increased timeliness, through quick response reporting and strengthened audit quality through more formalized internal review process. The projects he completed

led to improvements in the city's ethic structure, better managed electric and water utilities, a cost effective solid waste it wastes operation and a functional health care system, plus contributions in many other high priority areas. This certificate is presented with our admiration and much appreciation of Taylor's excellent leadership and service to the city of Austin on this first day of October in the year 2009. And again, it is very bittersweet, but it is my honor to get to present this to you. Thank you so much for all of your efforts. [Applause] [one moment, please, for change in captioners]

the city of Austin -- the city seal pin but it says retired underneath it. Congratulations. [Applause] Mayor, do you -- well, I just want to say congratulations to you, Taylor. You've served this city well for so many years, and we all appreciate it very much, and I think all of us envy you just a little bit. I'm sure you're going to enjoy retirement, and thanks again, and we will remember you for a long time and your contribution you made to the city of Austin. So congratulations. [Applause] and now we're fortunate to have a few folks in the audience who I think will come up and say a few words. Of course Steve Morgan who we have missed for a few months. I hope you're enjoying yourself in retirement. Good to see you.

I think the comments that the council members made, the mayor and mayor pro tem, cover a lot of how we feel about Taylor, but I do want to set the record straight, as the former auditor, I think actually I was asked to talk because I hired Taylor, but I think he just showed up one day. [Laughter] that's how he got here. He just showed up, but he's the only one who just showed up one day and eventually became deputy city auditor, as Colleen Waring did, and then acting city auditor, and one of the things that really stood out for me is thinking about his career in terms of all the movies that he's heard me talk about, and I've decided not to make any comments Apocalypse Now or Titanic or any of those movies. Instead I'm going to go right to the one that means the most to me, which is remember the Titans, and I think in remember the Titans, if you guys remember, what it was was each individual had to bring their talent and capabilities to the team for the team to win, but they also had to work as a team, and I think Taylor exemplifies that both in terms of his 19 or however many years it was, Taylor, and also the fact that he really served the city well during this last year, stepping up and volunteering again, this time to be acting city auditor. Thank you, Taylor, on behalf of everybody. [Applause] we also have another visitor from the past, Colleen Waring, who worked with Taylor for all of his years, I believe, so we'd love to hear a few comments from you.

I just wanted to have a couple of recollections of Taylor, because although Steve, who is the city auditor, gets the credit for hiring Taylor, it was, in fact, I who taught him everything he knows. [Laughter] starting from when he was just a mere volunteer, Taylor was working with me, but he quickly outstripped all of us because Taylor brought his technological know-how to the office, when all the rest of us were scribbling around with pencils and spreadsheets, the big paper spreadsheets that go out for 13 or 15 columns, Taylor was telling us there's this thing called a computer. [Laughter] and what was really scary about it with Taylor was that, you know, then he said, "I think we can do networking," and nobody knew what that meant back in those days, so he -- we all had Macintosh computers in our offices, and Taylor got this thing, some little box, he called an Ethernet, and put us all on this Ethernet, and then everybody is like, what if all my stuff goes into the ether and disappears? [Laughter] but you sold all of us, Taylor. We're all very big on computers now, and as auditors we couldn't live without them. So we owe all that to you, our technolog magnificence in the city auditor's office is down to you. And that's one of the many thoughts I

have when I think about the contributions that you've made over the time, but there have been a lot, and I just wanted to find out if you -- if you had ever managed to get over the whole thing about, when you fire the busboy, you know, you can always just go right to the back door and bring in a new one. [Laughter] and it's not that easy with auditors, is it? And they're harder to bring on board, too. So well, I really have appreciated working with you, Taylor, and I think all your experience in the restaurant industry from before you came to work for us has benefited your ability to bring up a much more -- a much more calculated approach and also a really good management style. So it's been -- it was great working with you before I left, and I -- I really wish you luck in your retirement too. So -- [applause] we're not done yet. I know there's a lot of auditor folks here, do you want to come on down? Russ Needler has something to say. Do you want to come join us? Come on down, we'll get you in front of the camera for a change.

We're not accustomed to people wanting us to come down and talk.

Auditors are my favorite people.

You've heard a lot from the folks who hired people and who he worked for, but I'm someone who worked for Taylor, and he was my supervisor for many years, and I've never had an opportunity to thank you for -- I think the first assignment you gave me was to follow garbage trucks around and make sure they picked up everyone's trash and didn't miss anyone. So I want to thank you for that. A couple things here. First off here, we do have a little token of our appreciation to you, Taylor, and I wanted to be the first one to present something to you as Taylor Dudley, private citizen, so thank you for all the great work you've done, and I know we're all very appreciative of what you've done for us and how you've taught us over the years to think on a large scale in doing the work that we're doing, and we just have one last thing for you here, as you cross into your new life, our Taylor Crossing sign for your 19 years of great work.

Thank you. [Applause] It's all yours, Taylor.

And I won't keep you too long. I just wanted you to know that I've been very blessed not only to walk into the door of such a great organization and stumble into what I did, but to have the support of council over the years that have enabled us to do the work. I can tell you it's been terrific to have that kind of backing and interaction. I know the people that came in and reviewed us just in the past week were envious of the situation we have. And finally I want to thank staff. I think most of you all know I haven't been doing audits and investigations over the last year, it's been a terrific staff and I'm lucky to hire people who are smarter than me and have more advanced degrees and such, and I think the city will continue to benefit from having those same people there so hopefully I won't even be missed. I appreciate it. [Laughter]

Morrison: all right. Now we have the last proclamation of the evenings for Tex Health Central Texas, I'm going to be joined by John Rodriguez and some other folks, Ann Kitchen and Courtney Watson. Thank you. I think we all in Austin understand that small businesses are an absolute integral part of our city. They add a unique balance of Islamic opportunity as well as quality of life, not to mention that they



collectively are one of the largest, if not the largest, employers in the city. They provide needed services, they provide employment, they make our neighborhoods more livable and help austin maintain our unique character and local flavor, and they also help make this the -- the whole region more sustainable. Unfortunately, four out of five small businesses in central texas with under 20 employees aren't able to provide health insurance to their employees. If small employers can't provide health coverage, they have a harder time finding and keeping people. They need to grow their business. That means fewer jobs and fewer services and fewer opportunities for all of us. Luckily we now have an option in central texas, tex health central texas is now bringing affordable house coverage to small businesses health coverage to small businesses. Just yesterday we had the launch of tex health for central texas and we were joined by kirk watson as well as representative elliot naystaff and representatives from the healthcare district. We were celebrating the sign-up of the first person and that was trinity child development center, which provides child care and early childhood education in windsor park and has done that since 1964, and I was there, I can tell you there are a lot of very happy kids there. It serves a diverse community of families at different income levels, and it's terrific that they are now able to provide health coverage at an affordable cost for their employees. So I'm very excited and honored to have the opportunity to present this proclamation to jim rodriguez from tex health central texas, and I'll read it now. Be it known that whereas the quickly rising cost and shrinking availability of group health coverage has left 20% of the citizens of our five county central texas region without health coverage, and whereas tex health central texas, a community-based nonprofit, supported by the traffic healthcare district and hays and williamson counties, is offering a low cost health benefit plan for small businesses who currently lack coverage, and whereas the plan offered by tex health central texas provides basic yet comprehensive coverage that addresses the key medical care -- medical care needs of small businesses and their employees to create a healthy community. Now, therefore, I on behalf of lee leffingwell, mayor of the city of austin, texas, do encourage all small businesses who lack health coverage to explore tex health offerings and do hereby proclaim october 1, 2009 as tex health central texas awareness -- oh, excuse me, the whole month. [Laughter] october 2009, as tex health central texas awareness month in austin, texas.

Thank you very much. [Applause]

thank you, council member morrison. My name is jim rodriguez. I'm the president and ceo of tex health central texas. I just wanted to read off a few things for you to give you a flavor of what we're up against here. More than 67% of private small business employers, those with two to 50 employees in texas don't offer health insurance to their employees. One in five travis county residents don't have health coverage. Texas ranks first of 50 in the percentage of uncovered residents. Uncompensated healthcare costs, travis county hospitals, \$516 million per year. Insured texans pay \$900 annually. This is people who have insurance here in travis county and all over texas. \$900 Annually in premiums just to cover the cost of care for the uninsured. A family of four pays \$2,800. So what is tex health central texas? Tex health central texas is a community designed nonprofit organization whose sole purpose is to provide comprehensive healthcare benefits to the working uninsured. Furthermore, we're not looking to make a profit. We just want to break even. When it comes to health insurance the small business community has been the most neglected population in our great state and our great country. They have been denied health insurance because the coverage was priced too high or there is a 6th person in the group

or their industry is considered too high risk to insure. They fall into that group of workers sandwiched between government sponsored health benefit programs like medicaid or medicare, and those covered by large commercial enterprises or those who work for governmental entities. Small business employees are the ones who cannot afford to get sick and keep working until they can't stand it anymore and then run off to the emergency room, where the average cost for a visit is \$1,000, and that's for uncoordinated care. You and I pay for those visits. Now with tex health central texas there's a paradigm shift. Low wage workers now have an option. They have the opportunity to enroll in a program that is low-cost, comprehensive and preventative in nature, to catch illnesses before they turn into acute or chronic conditions. Tex health central texas will bring health benefits to approximately 2500 employees working at 280 central texas small businesses. The average monthly cost of a tex health benefit plan is \$244, depending on age and gender. The tex health benefit plan is available now. Call 1877-704-0111 or visit org to learn more. Thank you very much. [Applause] I also want to mention that we're joined by ann kitchen with the integrated care collaboration. For tex health central texas to be possible in the state of texas it took some work up at the legislature, and folks like ann were up there for -- how long ago did you start?

Been working on it --

two years. Two years. So it's been a long haul of. It's now available in regions across the state and we're really fortunate to have it started up here in the central texas area, and as I mentioned, we have courtney watson, who is here with tex health, and I also want to introduce and bring up cindy garcia, who's with our economic growth and redevelopment organization, a small business development plan. We're very excited about working -- about the staff work in reaching out into the community to make sure people know about this. So, cindy?

Thank you. I'm cindy garcia, and I work for the small business development program. And if you need additional information about tex health, please feel welcome to call (512)974-7800. Gratefully we have the support -- the continued support of our austin city council to be able to provide services through the small businesses development program, a real gem in our community. For those people that are interested in starting a business or have an existing business and need help in making it grow, we're there for you. We have assistance with business plan and marketing plan development, business education, assistance with financial readiness, all kinds of wonderful things, including a business technology center that's open during the week from 8:30 to 4:30. The services and resources in this community, including the small business development program, where you can secure additional information about this program. It's truly something that has been of significant benefit to many in our community that are interested in helping to be one of the many businesses that make austin what it is. Thank you. [Applause] and just one last comment, and that is that on november 18, the staff is planning a breakfast to -- and inviting all of the small business folks in town to come to city hall and learn about tex health central texas. So thank you for that, and thanks to everybody for your work.

Thank you. [Applause]

we are out of recess, a quorum is present, so call up item n 61, which is to conduct a public hearing for

the full purpose annexation of the shaw lane quarry annexation area. Welcome.

Good evening, mayor and council. I'm virginia collier from the planning and development review department. This is the second of two public hearings for the following set of four full purpose annexation areas, items 61 through 64. Council will not be taking action on these items. Ordinance reading is scheduled for october 22. In compliance with statutory requirements a draft service plan has been prepared for each area. Each service plan contains three main components. First is the action program which lists all the services that are provided in the area commencing on the effective date of annexation. In addition there are a list of additional services not required by state law for annexation but are available citywide, and finally there's a section that describes capital improvements that would be provided -- required to provide municipal services to the area. 61, the shaw lane quarry area, this includes approximately 197 acres and is located in eastern travis county, approximately 2,225 feet south of the intersection of McKINNEY FALLS PARKWAY AND Shaw lane. Currently in the city's etg and adjacent to the full purpose jurisdiction on the west side. The majority of the land in this area is owned by the city and in addition to city owned property the area includes a small tract of undeveloped land on the west SIDE of McKinney falls parkway as well as a portion of McCifny falls right-of-way approximately 1,775 feet in length. Upon annexation the city will provide full municipal services as provided in the service plan. Copies are available out front at the city clerk's desk this evening and this concludes the staff presentation for item no. 61. any questions of staff? There are no citizens signed up for this public hearing. I'll entertain a motion to close the public hearing. Motion by council member riley, second by council member morrison. Y discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Any opposed? That passes on a vote of 5-0 with the mayor pro tem and council member cole off the dais. 62 is the reserve at westhill annexation area. This includes approximately 7 acres and is located in northern travis county at the northwest corner of the intersection of yaupon drive and texas plume road. Portions of this area are currently in the city's limited purpose jurisdiction and the remainder is in the city's e.t.j. This area is adjacent to the city's full purpose jurisdiction on the north east and south sides and development includes 17 single-family detached homes. Upon annexation the city will provide full municipal services to the area as described in the service plan, copies of which are available this evening and I'd be happy to answer any questions you have on item no. 62. Questi questi ons of staff? There are no citizens signed up to speak in this public hearing. I'll entertain a motion to close the public hearing. Motion by council member morrison, second by council member spelman. Any discussion? All in favor, say aye.

Aye.

Mayor leffingwell: aye. Any opposed? That passes on a vote of 5-0 with the mayor pro tem and council member cole off the dais. 63 is the ferguson lane-brown lane annexation which includes approximately 22 acres located in eastern travis county east of brown lane and west of ferguson lane, approximately 875 feet north of the intersection of ferguson lane and brown lane. This area is currently in and is adjacent to the full purpose jurisdiction on the west and south sides. Property in the area is fully

developed and land uses include three single-family homes and extensive office and warehouse uses. Again, copies of the service plan are available this evening, and this concludes my presentation on item 63. any questions of staff? Again, there are no citizens signed up to speak in this public hearing, so I'll entertain a motion to close the public hearing. Motion by council member morrison, second by council member riley. All in favor say aye.

Aye.

Mayor leffingwell: aye. Any opposed? Passes on a vote of 5-0 with mayor pro tem martinez and council member cole off the dais.

This brings us to item 64, the northwest hills ranch annexation area. This includes approximately 20 acres in northern travis county east of dk ranch road, approximately 275 feet south of the intersection of dk ranch road and texas plume road. Portions of this area are in the city's limited purpose jurisdiction and the remainder is in the city's e.t.j. The areas adjacent to the full purpose city limits on the north and east side and development includes 19 single-family detached homes. Again, upon annexation the city will provide full municipal services to the area as described in the service. Plan, copies are available this evening and I'd be happy to answer any questions you have on item no. 64. Any questions of staff? We do have two citizens signed up to speak. The first is robert keer, who is signed up against. Welcome, sir. Come up to the podium and once you start talking you will have three minutes.

Thank you, mayor, council members, reluct antly I have to be here to oppose the annexation. I am the one landowner that exists in that area with large animals. I have had large animals since I purchased the property somewhere over 21 years ago. There were large animals kept by the previous owner and by the previous owner to that, as far back as I can trace it and remember. Now, I've been told that there would be a waiver for ten years until I could make other arrangements. After that I would be subject to the city health code, which would require that I keep my critters somewhere around 100 feet off the property line. This would eliminate barn, there. I'm not finding the right pointing device. It would be eliminate the riding arena. It would eliminate the corrals where I keep the animals for veterinary purposes when that's necessary. It would eliminate all the area around this area of property. There's supposed to be 50 feet off a residence. I don't know if that includes mine or not. It would then take the animals that I have there and confine them to just about one-half acre out of the current two and a half acres that they have to move around in. I don't think this is right. This is a legal purpose for which -- you know, that I've had for as long as I've owned the property, ten years. I can understand the council and the city not wanting to have a waiver beyond ten years because that sets another precedent. At the same time I have not yet seen anything or heard anything that provides any relief. And so, sir, I have to -- i have to oppose the annexation. I suppose I'm [indiscernible] at windmills asking you not to annex the whole area, but I will ask that, and barring that i will ask you not to annex my particular property, since there seems to be no way that anybody has thought of yet that I can continue to use the property for the large animals that I'm currently legally allowed to use. Thank you. thank you, mr. keer. I guess I'm the only one still on council when a few years ago we passed a special exemption for nick, the goat, in south austin, so that's always a possibility. Next speaker is mike duncan. And mike has signed up as

being neutral on this subject.

All right. My name is mike duncan. I live on dk ranch court, which is a small street right off of dk ranch road, which is part of this annexation proposal. And our biggest concern on this neighborhood is this street, dk ranch court, is a limited access road, and we're concerned about the ability of solid waste services trucks and other service vehicles to get into that -- on to that street since it's fairly narrow and as you can see from the picture, there's not a cul-de-sac at the end of the road to be able to turn around, so there's a concern that they won't be able to turn around in that -- on that street. There's also limited parking because the street is narrower than evening a typical street would be. There's no street lighting, and that's one of the things we'd like to ask is see if we can get at least one streetlight, possibly, installed on that street. Beyond that there's really no street lighting on dk ranch road either, which would be, I think, very useful to have. There's no curbs or gutters, which I understand that probably wouldn't be added as part of this, but the big -- and the other big thing is that the road is not constructed to really city of austin standards. I think the guy who built the road originally just built the road right over the dirt, essentially, and didn't build up a base, and so we would like to see -- be able to see that, you know, the city would maintain it or bring it up to standard at some point. And we've talked to the city of austin staff, so I think we can hopefully address some of these issues going forward, so we're not really opposing the annexation directly, but we just have these concerns that we'd like to get addressed. thank you, mike.

Okay. Thanks. we do have one more speaker signed up now, brenda berra. Brenda berra. Welcome, ma'am. You have three minutes.

I'm here to say that I am not happy about this annexation proposal. In fact, it makes me angry that the city has decided to try to get a very small increase in its coffers of i don't know how many hundreds of millions at our expense. Adding an additional tax burden to these property members is a hardship at this time, just the city is struggling to balance their budget, we as homeowners with unemployed spouses are trying to do the same. Only the percentage is much higher for us to pay these additional taxes. It's going to increase my taxes by 50%, probably, and it's going to help the city by a little teeny bit. Yes, we will get city programs, like fire, police, garbage pickup. We already have these things with the county and private trash services. Will an additional, say, \$10,000 bill in taxes be worth it just to change the players? Not for me. I'm not happy -- I am happy being out of the city with no curbs, no street drainage, no streetlights, and I understand you do not intend to provide these services. If that's so, what are we getting for our money? What will change for us that will be worth this added expense? We moved to dk ranch road from one street over on yaupon drive, one street, to be out of the city and do not choose to be annexed. Why is my side of the street slated to be annexed and not my across the street neighbors? This annexation proposal only benefits the city with a very small percentage of added revenue and does not benefit the property owners. I heartily oppose this annexation. Thank you. thank you, brenda. And now we have one more speaker signed up, haiming wang. Haiming wang. Either mic is fine. wang is signed up against. mayor and council members. I actually come here to talk about a case of cc 2 -- i just came here kind of late a little bit. well -- wang, the public 62 is closed.

Yes, I am talking about actually the same thing, the annexation for westhill reserve. That is right next to

-- next to the dk ranch annexation. It's very close and seems kind of -- do we have another public hearing scheduled for item 62? Is this the final one?

I hope you can allow me to speak. without objection, is there any objection, council, we'll allow you to speak, keeping in mind that the public hearing has already been closed on that one. Go ahead.

Thank you so much. Yes, my name is jaime wang. I'm one of the new homeowners at the westhill reserve. I'm speaking to oppose the annexation. First of all, we had a vote from all the homeowners recently, and 90% of the homeowners voted against it, and that basically means that most our homeowners are happy with the service we have currently, and whatever service we have right now it just works fine. We had a group discussion. Most of the people agreed that we are fine with our current service, the service -- the [indiscernible] service. I think some of it is better than the city trash service, and we are okay with the 911 ems and fire station, those kind of services. We believe it is fine. Second thing is being all the homeowners are new to this area. We bought a home around january and february of 2009 of this year. We are not ready to pay a \$2,000 or \$3,000 more for the extra tax because of the city annexation. Especially in the current economic [inaudible] loss of jobs and receive some financial difficulty. For my own piece, my wife lost her job last year and i have three kids and one is 3 years old and the others are 10 -- I need to have \$3,000 for each [inaudible] to take care, and I need to prepare \$2,200 for my mortgage. I can barely make my -- making the -- meet. So we think the annexation, it cost my family \$2,200, at least, for the extra tax. For my family I feel it is a burden, and I wish this annexation can be delayed to some future time, because we have a lot of financial difficulty. thank you, mr. wang. So that is all the speakers we have signed up to speak on item no. 64. I'll entertain a motion to close the public hearing on 64. Council member morrison moves approval of -- moves to close the public hearing. Council member shade a second. Is there any discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Any opposed? That passes on a vote of 6-0 with the mayor pro tem martinez off the dais. That brings us to item no. 65. mayor, council members. My name is kevin shawnt from the watershed protection department floodplain office. The last item on your agenda today is the -- is a floodplain variance request at 306 heartwood drive. The map you can see here indicates the lot in the red square. This is on -- in the williamson creek watershed, and the lot fronts the rear -- the rear part of the lot fronts williamson creek proper, as you can see. The lot is located within the 25-year and the 100-year floodplain. The 25-year is the dark blue. The 100-year is the light blue. It's important for me to tell you a little bit about how we got to this point. In april of this year there was a citizen complaint, code complaint, about this property. The person filed a complaint with the city, and the items that were brought to our attention involved a carport, some standing water on the property, on apparent wastewater leak, a dead tree and the presence of some rats and high grass. A day after the complaint was filed the code enforcement inspector went out to the property to inspect the items that the complaint was filed about. The code enforcement inspector wrote a red tag ticket and put it on the door, and the items that the inspector found that were out of compliance included the carport. He also wrote up about the high grass, above 12 inches. And the inspector also noticed that the garage has been converted into conditioned space. The inspector researched to determine whether permits for that development, and

he found none, and so the inspector also wrote up that the owner needed to get a building permit approved for that garage conversion. A week after that the owner of the property did submit the building permit application for the garage conversion. During that permit review staff realized that the property was in the floodplain and therefore the permit came to the floodplain office, and based upon the floodplain management regulations within the city, this development is prohibited from occurring due to it being into the floodplain, which is why we're here tonight. So the variance request from the code include four specific items. The code prohibits altering, changing, enlarging or expanding a structure which in any -- in any way which increases its non-conformity. The structure does not conform to the code in so much as the finished floor elevation is 7 feet below the floodplain elevation and there's no safe access out of the house to a point that's out of the floodplain. Converting the garage to conditioned space increases the non-conformity because you're increasing conditioned space within the structure. In addition, the code requires safe access out of the floodplain, from the house to a point that's one foot out of the floodplain. This garage conversion obviously does not provide that safe access since the house itself is 7 feet below the 100-year floodplain and the garage conversion is at the same level as the rest of the house. The code requires the finished floor elevations to be 1 foot above the 100-year floodplain, and obviously this garage conversion finished floor elevation is 7 feet below the hundred year. The last code variance request is -- involved the drainage easement requirement and the request is to remove the building footprint from the required drainage easement. The code requires that the limits of the 100-year floodplain be within the drainage easement, and in this particular case that includes the entire lot, so the variance request is to remove the building footprint from the floodplain itself -- from the easement itself. Sorry. Here's a picture of the front of the house as it existed just -- actually this is the day the inspector visited the site. You can see the carport there to the right of the garage and the wall that you're seeing there was the original attached garage when the house was built. Now it is obviously sectioned off with a masonry wall and is included as conditioned space. I just wanted to provide a little bit of timeline on some activities that have occurred with this house. Our permit database indicates in the travis county central texas appraisal district that the house was constructed in 1973, and with the research staff has done we have all indications showing that the house was built legally at the time. There was a drainage -- there is a drainage easement in the back of the lot, which was probably for the 25-year floodplain, but in 1973 we did not have the floodplain management regulations we do today, and so the house was constructed legally. In 1981 the city of austin entered fema's national flood insurance program. The importance of this is that during that year we created flood insurance rate maps, and we also adopted floodplain management criteria within the code, which restricted development in the floodplain. For that 1981 flood insurance rate map the floodplain elevations for the hundred year indicate that this house would be -- would have been in the floodplain. The current owner of the property wasn't the original owner. The current owner, avila, purchased the property in 1989, and through our conversations with the current owner he stated that this garage conversion existed at the time he purchased the property. We don't have any information on when the conversion was done, but it's our understanding that it was completed when the property was purchased in '89. And again, 2009, april of 2009, the city inspector visits the property, and then a week after that in april 2009 the property owner submitted the building permit application. There is a history of flooding on heartwood drive. We've seen the floodplain map that indicates that it's within the 25, 100-year floodplain. Here are two pictures of houses on heartwood drive that did receive flooding in the

october 1998 storm. So the significance of the flooding and the floodplain is there. To summarize our findings, and a couple points I'd really like to stress. The first one is that there is no adverse flooding impact to other properties due to this development. There was no increase in the building footprint with this garage conversion. I merely of a garage space into conditioned space. And so there's no adverse flooding to other properties. The date of the development, as I've stated, is unknown. In 1989 when the current owner purchased the property he stated that the garage was already converted. One of the main points of concern for staff is that the floor elevation of the house and the garage is approximately 7 feet below the 100-year floodplain, and that's also about 4 feet below the 25-year floodplain. There's no safe access out of the building to a point that's outside of the floodplain, and as we've seen in some of the pictures there is a significant history of flooding within this area. The staff recommendation for this variance is for denial, and the main reason for that stems from the fact that the finished floor is extremely low. It's 7 feet below the 100-year floodplain. The code clearly states that finished floor elevations need to be above the floodplain so that properties can minimize their damages during a flood. In addition, the no safe access out of the building is a significant factor as well. There is a draft ordinance in your packet. A few things that I want to point out with the draft ordinance has to do with some of the conditions in the ordinance as well as the expiration term. If council does find that they would like -- they desire to approve this ordinance, the three conditions that we have placed on to the property owner include dedicated drainage easement to the limits of the 100-year floodplain, excluding the footprint of the building. We need structural certification that the garage conversion, which really in this case is the new wall that was placed where the garage door was, is structurally sound and can withstand the forces of the floodwaters, and the third item is we need an elevation certificate to verify the elevation of the house and the garage conversion with respect to the 100-year floodplain. In the ordinances that we prepared for you we -- we always have expiration dates. Typically the expiration dates for floodplain ordinances we place at about one year. There have been cases where we have gone, in addition to that, we have recommended a two-year expiration for this two-year floodplain variance. We realize that these conditions here, if the ordinance is approved, these conditions would be a financial hardship to the owner. The fact that the development does not cause adverse flooding impact and the fact there is a financial hardship, we felt give the owner two years in order to get these things done, and that might be of a little assistance to them. If you have any questions I'd be happy to answer them. council member morrison. I have a couple of questions. Do you know how many square feet the house is and how many square feet the enclosed garage is?

The garage is about 300 square feet. The house roughly 1700. That probably includes the garage. and is there anything that we know that tells us that the garage was enclosed after 1981?

We have no indications in the permit records, in our discussions with the current owner, so we really don't know.

Morrison: okay. Thank you. well, I have a comment. In the last several years i have personally made two trips on behalf of the city to talk to the corps of engineers about our onion creek buyout plan, which is just a little bit south of williamson creek. Onion creek happens to be the most flood prone of any of our 17 austin urban area creeks. Williamson is right there in the neighborhood with onion. This buyout project on onion creek is a little bit over \$75 million, and of that \$75 million the city -- the city's proportion



is about \$23 million. We have been buying out those properties on onion creek for several years, and we have now -- we're at the point now where we've reached the limit of the city's participation in this without alike participation from the federal government. The corps of engineers has recommended this project be funded in previous years but it never made it out of corps of engineers. This year it made it out of the corps of engineers budget for 2011 for o and b and I anticipate I will be going to washington sometime in november to try to argue that case to try to make sure o and b puts this buyout and restoration plan in their 2011 budget. So I will just tell you that I am going to be very hard-pressed to approve floodplain variances in one of our urban creeks where it's -- it obviously does not have safe access, safe egress, and I frankly would be embarrassed to admit to that when I go up there trying to make the case to get these federal funds for the city of austin. Council member spelman? just a couple questions. If this ordinance were not adopted, what would be the practical effect on avila's ability to use the building?

If the ordinance is not approved, then the building permit as it exists would not be approvable, but then they would need to convert that building permit to an application that indicates converting the garage back to a garage, from conditioned space to a garage. suppose he didn't do that. What would happen then?

It would remain a code violation and the city would pursue it through, you know, its legal means, the law department is here, maybe could respond to that. so what he would have to do from your point of view is knock down the wall and uncondition that space?

Correct.

Spelman: okay. Is there any time between 1973 when the house was built and 1989 when avila purchased the building when it would have been legal to have converted that garage into conditioned space without getting a building permit from the city? where we entered the nfip in 1981 -- to the point where we entered the nfip in 1981 we would not have had in city the regulation and there wouldn't have been floodplain regulations in the city so it would have been legal to convert it at that time.

Were and we don't know when this conversion actually happened,.

Correct.

So it was before 1989 but that sounds reasonable from all reports, you've looked at it. It looks like it might be old enough. So it's conceivable that this conversion was done -- I'm sure I'll hear about this in a second -- it's conceivable this conversion was done in a legal way; is that right?

It's conceivable it could have been.

It could have been. Okay.

Betsy cotton, assistant city attorney. He would have needed a building permit. He would not have

needed a floodplain variance. So it wasn't legal in the sense that it was done without a building permit, but he could have gotten a building permit before '81.

Spelman: okay. And we have no record of a building permit of any kind. And would we have a record that far back?

We would. We do have in our permit database the water taps for '73, so we have that, yes, I'm confident we would have the building permit.

Spelman: okay. So this was done without benefit of permit, somebody just did it.

Right.

Spelman: okay. Is there any way upon purchase of this property in 1989 that a reasonably prudent buyer could have found that there was no co issued for this section of the house he was buying?

That's a good question. I mean, as far as the due diligence of buying a property, if there are obviously any liens on the property, those would have come up, but, you know, there weren't any code complaints or code violations, which could have come up as well, then I'm not sure how it would have been found.

Spelman: okay. So in your opinion a reasonably prudent buyer -- I realize this isn't the sort of venue you're usually asked to give, but it does seem to you it would be -- we would be asking a lot of a buyer for them to have researched this and discover that there was this -- this conversion had been done without a permit? Okay. You mentioned in your -- your statement of findings that it's insufficient cause for issuing a variance if there is less than a drastic appreciation of property value. This is a 15% reduction in total conditioned square footage of the house. 15% Doesn't qualify for drastic? Do we have a rough sense for how big is enough to be drastic?

Well, I think the drastic depreciation would be rendering a lot undevelopable. I mean, you know, with the house as it existed with an attached garage is a -- is a use of the property, and so converting a garage into conditioned space wouldn't make it -- wouldn't put a hardship on the property because there's still a use that exists on the property. by hardship we're basically saying you can't use the property anymore, that's a hardship, but if the total value of your property has been reduced by 15% that's not sufficiently drastic to qualify in the usual way.

Right.

Okay. what's the basis for these insufficient causes, less than drastic appreciation, convenient of property owner, circumstances of owner outlay and those things?

Those conditions, the conditions are actually in the ordinance, and then some of the other information that's in your backup is some information that pheme submits to us and it's kind of our guidelines to go by. There's not strict definitions and examples of how to apply those. They're very -- the terms that we

use as guidelines, and we try to make our decisions as, you know, historically we try to be consistent with how we apply those. as the pirate barberosa said, it's not really a code. It's more about guidelines. Is that about right?

Right.

Spelman: okay. I have no more questions for right now. I'll probably have some in a minute. council member morrison?

Morrison: thank you. I don't know if you'll be able to answer these off the top of your head, but can you give me a sense for over the past year or five years how many times the council has approved a variance in the 100-year floodplain?

I would say on average the floodplain -- number of floodplain variances that the city approves, some of them being council, some of them being administrative variances, is probably in the range of ten.

Morrison: per year.

Per year. I'm just trying to think back of my own experience in just 15 months on the council, and I don't recall us approving any floodplain variance in the 100-year floodplain, and one that's come --

mayor leffingwell: 25.

Morrison: pardon? 25-year floodplain, this is.

Right. I think -- I think one of the significance of this is that the finished floor elevation is actually below the 100-year floodplain. Typically when applications come to the city they are showing that the finished floor elevation is above the hundred year, albeit maybe they can't get the safe access out of the floodplain, they can't compensate for the fill they put in the floodplain, and those items would kick them out of the administrative process, which the director can approve, and those are the variances that we bring to you.

Morrison: okay. I'm just trying to get a sense -- I'm very cognizant of your comments, mayor, and so I'm trying to get a sense for how much something like this would be out of the ordinary for the way we're doing -- we do things. It sounds like it would be pretty strongly out of the ordinary. so can you tell us again what the maximum depth of water that emergency vehicles, like a fire truck, can go through to access a dwelling like this?

In our discussions with the fire department, they have stated that the maximum depth that they care to put their vehicles through is about 18 inches. and this is how deep?

This is -- the finished floor of this building is 7 feet below the 100-year floodplain. And the lot itself doesn't slope down to the creek until the rear of the lot, so the street level is about the same elevation

as the finished floor. So it's about 7 feet in the street as well. so about 7 feet versus one and a half feet for safe access with an emergency vehicle?

Right, and the safe access rule, which is part of the code, states that you have to be able to get from the house to a point that's 1 foot out of the floodplain.

Mayor leffingwell: thanks. Anything else, council? Council member spelman. I understand this house is well below safe access for emergency vehicles. The whole house is, though, not just this [inaudible]. Are there other houses on the same street that are at roughly the same elevation or is this one considerably lower than the average?

There are several -- many houses. We can go back to the picture if you'd like. There are many houses along this street that are at this depth and some maybe even deeper into the 100-year floodplain. pretty much the whole neighborhood is in exactly the same space, the same place, isn't it?

Well, this portion of heartwood on the downstream side is the lowest.

We've got several houses, though, that are at that low spot on heartwood that are in pretty much that same boat, and in a 25-year flood or a hundred year flood, basically we couldn't count on emergency vehicles be being able to get there at all.

Correct.

Spelman: okay. But this room is only adding 300 square feet to that total problem, and am i right in -- I think you said that the development does not have any effect on adverse flooding on any other property and doesn't change the shape of the floodplain in any way, correct?

Correct. what's the current use of this room? Can you tell me?

I actually don't know the current use. although it was not built with benefit of a permit, so far as anyone can tell is it built up to code?

Again, it hasn't been inspected. That would be part of this process, if the variance is approved and the permit proceeds, the inspectors would inspect the property to the extent that they could or are requested to.

Spelman: mayor. In light of the fact that this development -- this conversion does not cause adverse flooding on any other property, it doesn't change the safety of the floodplain in the slightest, it's adding only 300 square feet to a house and therefore I don't think will have material effect on the ability of emergency service vehicles to be able to provide service. They simply won't be able to provide service to this house or houses in the neighborhood but that's not going to change. And in view of the fact that this particular owner could have been perfectly prudent and not known that he was purchasing a house that did not have the benefit of the proper permits, I'm going to move -- I fully expect to lose on this

motion, but I'm going to still move to adopt this ordinance. Council member Spelman moves to approve the floodplain variance. Is there a second? Council member Morrison seconds. And do you want to address your second? This is a very, very tough one for me, and I think that the circumstance is especially -- I mean, it's already been described by Council member Spelman, the fact that it doesn't materially change -- I mean, the thing that was most worrisome to me was putting emergency responders at risk, and I don't believe it changes that risk from what exists with or without it. So it's a very, very tough one for me, but there you have it. Well, I would like to address the last comment. The criteria is not how many square feet it is. The criteria is does it create additional habitable space. In other words, additional people in the space in the 25 and 100-year floodplain. That is the criteria. So I will be opposing the motion because I think it's such a very bad precedent, and it does -- it is recommended for denial, but denial by staff. There is no safe access by emergency vehicles. It does add additional habitable space for additional people to be living in that space, and therefore create -- does create additional risk. Does anyone else wish to speak to the motion? All in favor of the motion say aye.

Aye.

Mayor, I'm sorry, can you repeat the motion that was made? The motion is to approve the floodplain variance. Are you familiar with the case or do you want us to start over?

Is this the Heartwood case?

The Heartwood case.

I'm somewhat familiar with it, but I was trying to listen to the testimony on Kazi when I was driving back. I'll just abstain. Anyone else? So the ayes -- okay, all opposed say no.

No.

Mayor Leffingwell: No. Council member Cole, did you vote no? Okay. So the ayes are Council member Spelman, Council member Morrison, the no votes are Council member Reilly, Council member Shade, myself and Council member Cole with Riley with Mayor Pro Tem abstaining so the motion fails. And that motion was to also close the public hearing, Council member?

It also failed, however. [Laughter] Council member.

The floor is open for another motion.

Mayor, I'll move denial of the variance and the closing of the public hearing and denial of the variance. Council member Riley moves to close the public hearing and deny the question. Second by Shade. Any discussion? All in favor say aye.

Aye.

Mayor Ieffingwell: aye. Any opposed? Okay. That motion passes 4-2, with council members spelman and morrison voting no, and mayor pro tem abstaining. So the motion -- the motion to deny is passed, so the variance is denied. So according to my count there are no more -- there are no additional items on our agenda tonight. Confirm with the city clerk? So without objection, council, we are adjourned at 7:14.

**End of Council Session Closed Caption Log**